

NOTICE OF MEETING

CITY OF BRANSON



BOARD OF ALDERMEN

Luncheon – Thursday, November 3, 2011 – 12:00 p.m.
Administrative Conference Room – Branson City Hall – 110 W. Maddux
(MEAL ONLY)

Study Session– Thursday, November 3, 2011 – 12:30 p.m.
Municipal Courtroom – Branson City Hall – 110 W. Maddux

AGENDA

- 1) Call to Order.
- 2) Roll Call.
- 3) Administrator's Report.
- 4) Discussion of previous Study Session items.
- 5) Review of November 7, 2011 Agendas.
- 6) Discussion on wells inside the city limits. [Powerpoint]
- 7) Update on annexation of State Highways inside city limits. [Powerpoint]
[Map]
- 8) Discussion of proposed ordinance changes for special uses and outside display. [Powerpoint]
- 9) Mayor's Report.
- 10) Board of Aldermen requests for agenda items to be placed on future agendas.
- 11) Adjourn.

PREVIOUS ITEMS DISCUSSED AT STUDY SESSIONS

- 1) Discussion regarding signs, outside merchandise and false advertising. (Scheduled for discussion during this Study Session)
- 2) Preliminary discussion of special event permit modifications. (Scheduled for discussion at a later meeting)
- 3) Discussion regarding Water User Rate Review. (Will be included as part of the budget process)
- 4) Discussion regarding System Connection Fees.
- 5) Update on annexation of State Highways inside city limits. (Scheduled for discussion during this Study Session)
- 6) Initial Discussion of Proposed Ordinances to Limit the Sale of products containing Ephedrine or Pseudoephedrine. (Public Forum scheduled during November 7, 2011 agenda)
- 7) Discussion on wells inside the city limits. (Scheduled for discussion during this Study Session)

BRANSON BOARD OF ALDERMEN AGENDA

November 7, 2011

7:00 p.m.

**Meeting Called to Order
Pledge of Allegiance
Invocation – Jim Lawson
Roll Call**

Employee of the Month – Rick Ivey of the Fire Department to be presented by Alderman Rick Davis.

Citizen's Academy Graduation Ceremony.

PUBLIC COMMENT:

To speak during public comment, please sign the speaker sign-up sheet located at the front door of the council chambers prior to the start of the meeting.

CONSENT AGENDA:

- 1) Approval of Board of Aldermen Minutes:**
 - a) October 20, 2011 Study Session**
 - b) October 25, 2011 Special Meeting**
 - c) October 25, 2011 Regular Meeting**
- 2) Acknowledge Receipt of Minutes:**
 - a) Budget & Finance Committee meeting of September 22, 2011**
 - b) Budget & Finance Committee meeting of October 18, 2011**
- 3) Acknowledge Receipt of Annexation Petition filed by:**
 - a) Property located at 229 Stillwood Dr. and common ground within Stillwood Subdivision.**
 - b) Property located at 131, 133 & 158 Stillwood Dr.**
- 4) Acknowledge Receipt of Community Improvement District (CID) budgets:**
 - a) Branson Hills CID**
 - b) The Historic Downtown Branson CID**
 - c) Branson Hills Infrastructure CID**
 - d) Branson Commerce Park CID**
 - e) Forsythe Road CID**
- 5) Final Reading of Bill No. 3994 approving certain documents associated with the City obtaining a loan from the Missouri Development Finance Board and the leasing of certain property and improvements of the City in connection therewith; authorizing the City to obtain such loan and to lease such property and improvements; and authorizing the execution of certain documents and the taking of certain actions in connection therewith.**

- 6) **Final Reading of Bill No. 3995 approving the renewal of the contract with R.J. Scherr & Associates for State Lobbying Services.**
- 7) **Final Reading of Bill No. 3996 approving an agreement for professional engineering services between the City of Branson and Burns & McDonnell Engineering Company, Inc. for the Meadows Water Treatment Plant Intake Sediment Investigation and authorizing the Mayor to execute the contract.**
- 8) **Final Reading of Bill No. 3997 accepting the proposal of CINTAS Corporation for the rental of uniforms, mats and shop towels for the City's Public Works, Parks and Utilities Departments and authorizing the Mayor to execute the contract.**
- 9) **Final Reading of Bill No. 3998 accepting the proposal of JCI Industries, Inc. to repair or replace two pump assemblies at the Cliff Drive Water Treatment Plant for the Utilities Department and authorizing the Mayor to execute the contract.**
- 10) **Final Reading of Bill No. 3999 accepting the proposal of Reinhart Food Service pertaining to the purchase of concession supplies used in park facilities and authorizing the Mayor to execute the contract.**
- 11) **Final Reading of Bill No. 4000 accepting the proposal of BWI Companies Inc. of Springfield pertaining to the purchase of agriculture supplies used in park facilities and authorizing the Mayor to execute the contract.**
- 12) **Final Reading of Bill No. 4001 accepting the proposal the Middleton Group (Memco) pertaining to the purchase of janitorial supplies used for the City of Branson and authorizing the Mayor to execute the contract.**
- 13) **Final Reading of Bill No. 4002 accepting the proposal of Prolawn Service Company for mowing and weed-eating and authorizing the Mayor to execute the contract.**

REGULAR:

- 14) **First and Final Reading of Substitute Bill No. 4003 approving certain documents associated with the City obtaining a loan from the Missouri Development Finance Board and the leasing of certain property and improvements of the City in connection therewith; authorizing the City to obtain such loan and to lease such property and improvements; and authorizing the execution of certain documents and the taking of certain actions in connection therewith.**
- 15) **Public Forum on Proposed Ordinance to Limit the Sale of products containing Ephedrine or Pseudoephedrine.**
- 16) **First Reading of Bill No. 4004 appointing Willard A. Dillow as Special Municipal Judge and authorizing the Mayor to execute the contract.**

- 17) **First Reading of Bill No. 4005 approving an Intergovernmental Agreement between the City of Branson and the United States of America Department of Energy, Southwestern Power Administration and authorizing the Mayor to execute the contract.**

BID AWARDS:

- 18) **First Reading of Bill No. 4006 accepting the proposal of Brenntag Mid South, Inc. pertaining to the purchase of chemicals used in the water and wastewater treatment facilities for the City of Branson and authorizing the Mayor to execute the contract.**
- 19) **First Reading of Bill No. 4007 accepting the proposal of General Chemical Performance Products, LLC pertaining to the purchase of chemicals used in the water and wastewater treatment facilities for the City of Branson and authorizing the Mayor to execute the contract.**
- 20) **First Reading of Bill No. 4008 accepting the proposal of Polydyne, Inc. pertaining to the purchase of chemicals used in the wastewater treatment facilities for the City of Branson and authorizing the Mayor to execute the contract.**
- 21) **First Reading of Bill No. 4009 accepting the proposal of Hawkins, Inc. pertaining to the purchase of chemicals used in the water and wastewater treatment facilities for the City of Branson and authorizing the Mayor to execute the contract.**
- 22) **First Reading of Bill No. 4010 accepting the proposal of JCI Industries, Inc. to rebuild three return activated sludge pump assemblies at the Cooper Creek wastewater treatment plant for the Utilities Department and authorizing the Mayor to execute the contract.**
- 23) **First Reading of Bill No. 4011 accepting the proposal of Automated Control Solutions for a Programmable Logic Controller Maintenance Contract for monitoring system computers and radios for the Utilities Department and authorizing the Mayor to execute the contract.**

DISBURSEMENTS:

- 24) **Disbursements.**

MAYOR/CITY ALDERMEN/CITY ADMINISTRATOR'S REPORTS

ADJOURN

MEMORANDUM

TO: Mayor, Board of Alderman, & City Administrator

FROM: Mike Ray, Utilities Director
William Duston, City Attorney
Jim Lawson, Planning & Development Director

DATE: October 31, 2011

SUBJECT: Groundwater Wells Inside City Limits

Attached are the following documents for your review:

Power Point Presentation

- Well and Pump Depth Chart Information
- Drilling or Use of Water Wells - City Ordinance Article II Sec. 90-51
- Missouri Revised Statute Chapter 640, Sec. 640.648
- Neighboring City Ordinances
- Property Overview Maps

The purpose of this item is to allow continued discussion of the City's existing, "Drilling or use of water wells", ordinance and the possibility of modifying the ordinance to allow limited use of individual private groundwater wells for irrigation purposes.

Information and history that lead to the current ordinance adopted by the City in 2002 will be discussed. This ordinance prohibits drilling of individual water wells within the City limits unless the well is on City owned property or, under certain criteria, a publically owned water supply district may drill a water well in their certificated area. The ordinance also states any well in existence inside the city limits may remain in use if it is regularly used and maintained. Any existing well that is not used for a period of 30 days is deemed abandoned in this ordinance and must be closed. State statute allows for cities to prohibit drilling of individual private groundwater wells within their city limits.

A recent request has been submitted to the City Planning & Zoning Board to allow two (2) individual private groundwater irrigation wells which have been drilled inside the City of Branson city limits. Before a final decision is made in this matter, the current ordinance is being reviewed to see what best fits the needs of the community.

There are currently individual privately owned groundwater wells being used for irrigation and domestic use inside the City limits. To our knowledge, the existing wells have been allowed by agreement or were in existence prior to the adoption of the 2002 ordinance.

Representatives from Taney County Water District #3 and Tri-States Utility will be available to answer questions concerning their current policies regarding private wells in their services areas and provide input regarding the matter.



Groundwater Wells Inside the City Limits



Branson Michel Street

Period of record: November 1993 to present

Elevation: 845

Water level when drilled: 152

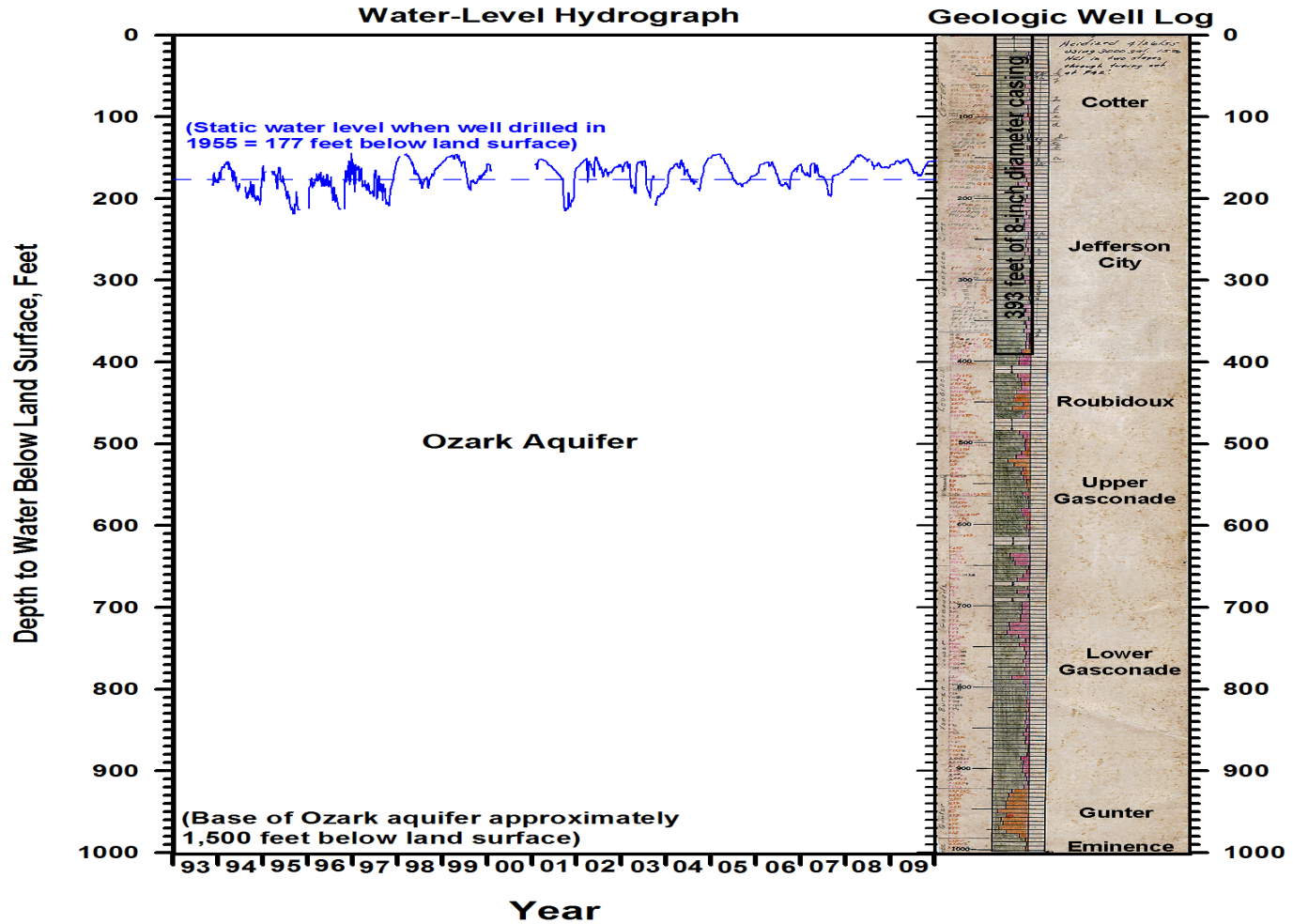
Total Depth: 1002

Casing Depth: 393

Producing Aquifer: Ozark aquifer

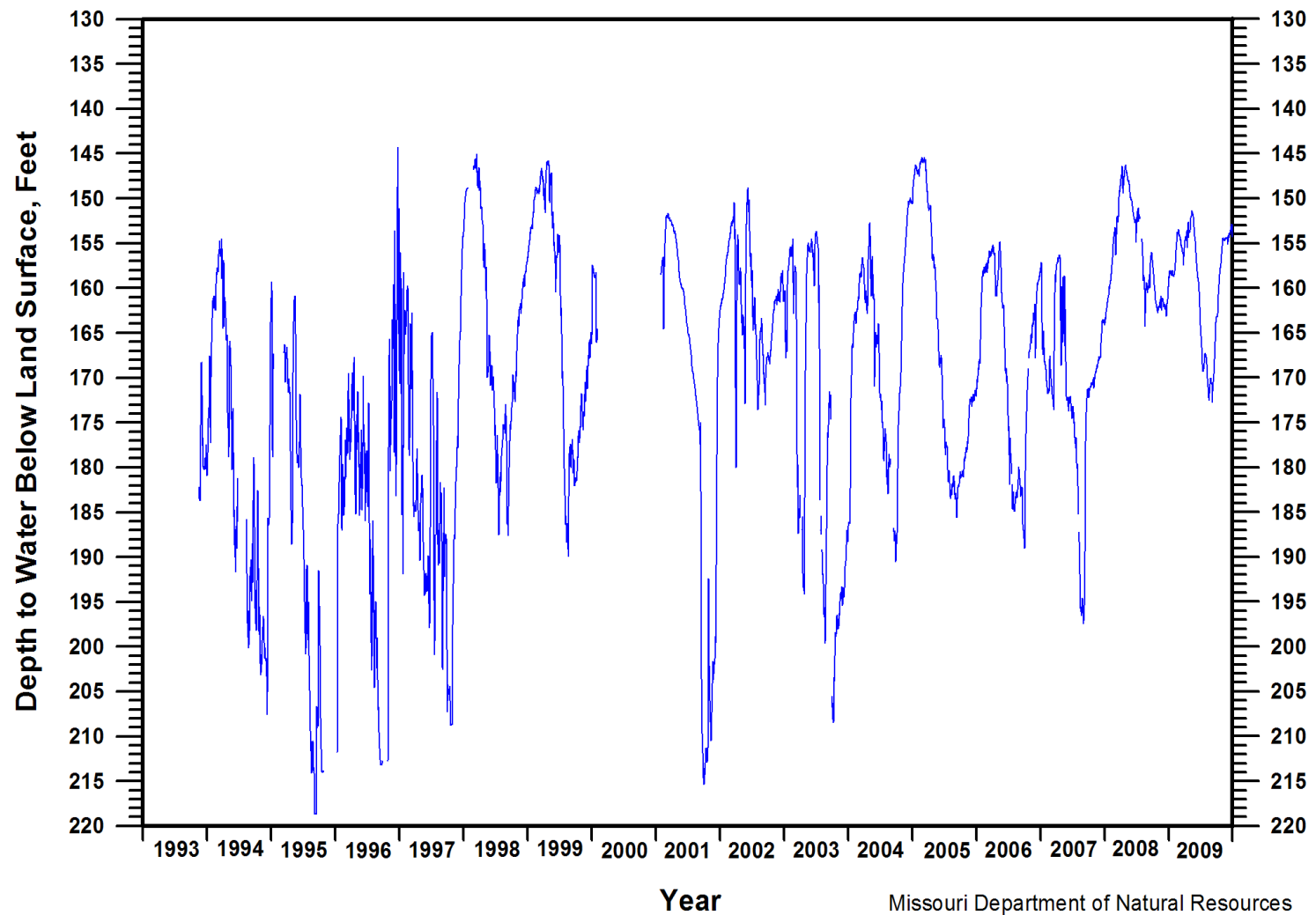
Formations open to production: Roubidoux - Gasconade

Branson Observation Well, Taney County



Missouri Department of Natural Resources
Water Resources Center

Branson Observation Well, Taney County



Missouri Department of Natural Resources
Water Resources Center



Cooper Creek

Period of record: April 1996 to present

Elevation: 840

Water level when drilled: Unknown

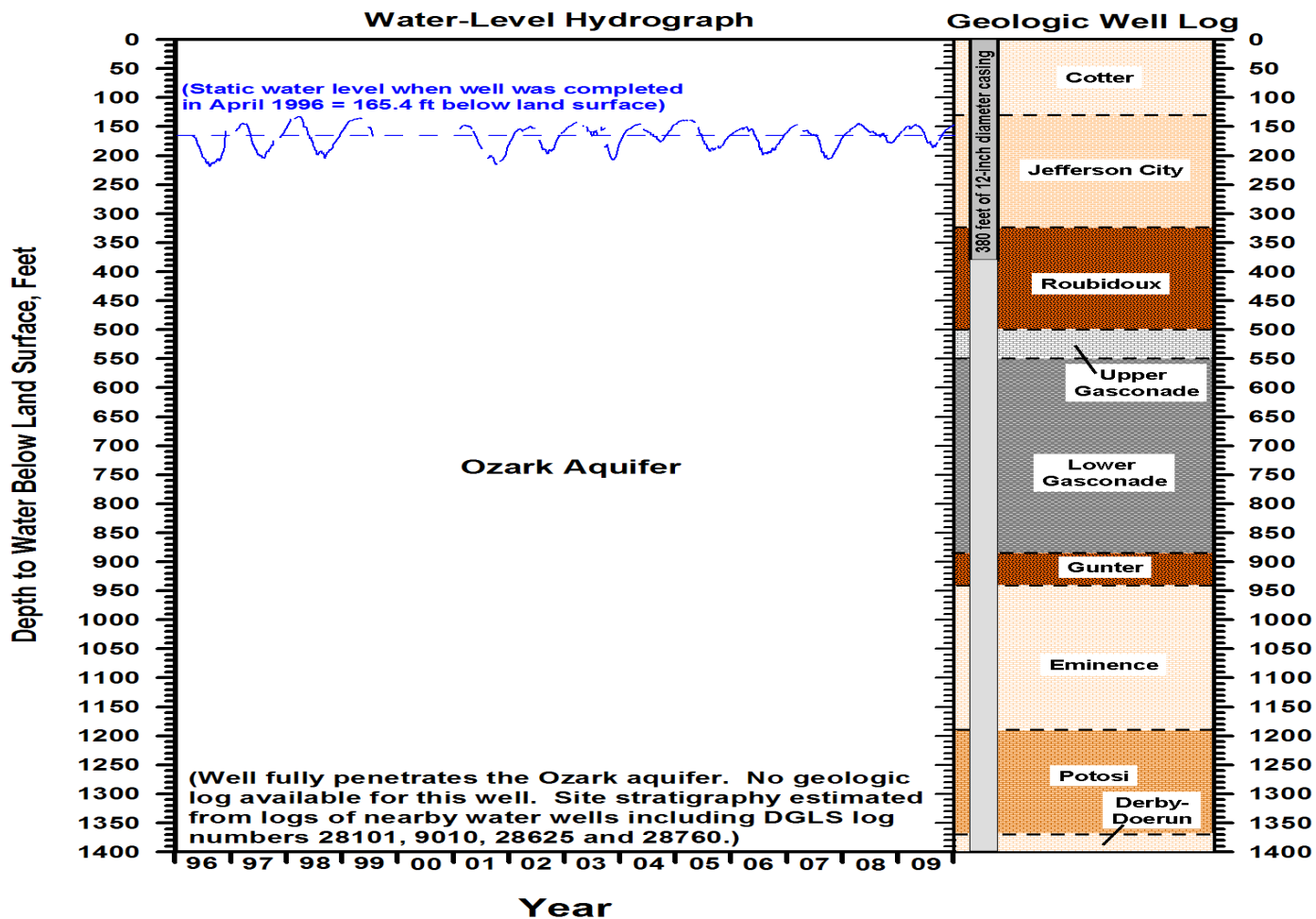
Total Depth: 1400

Casing Depth: 380

Producing Aquifer: Ozark aquifer

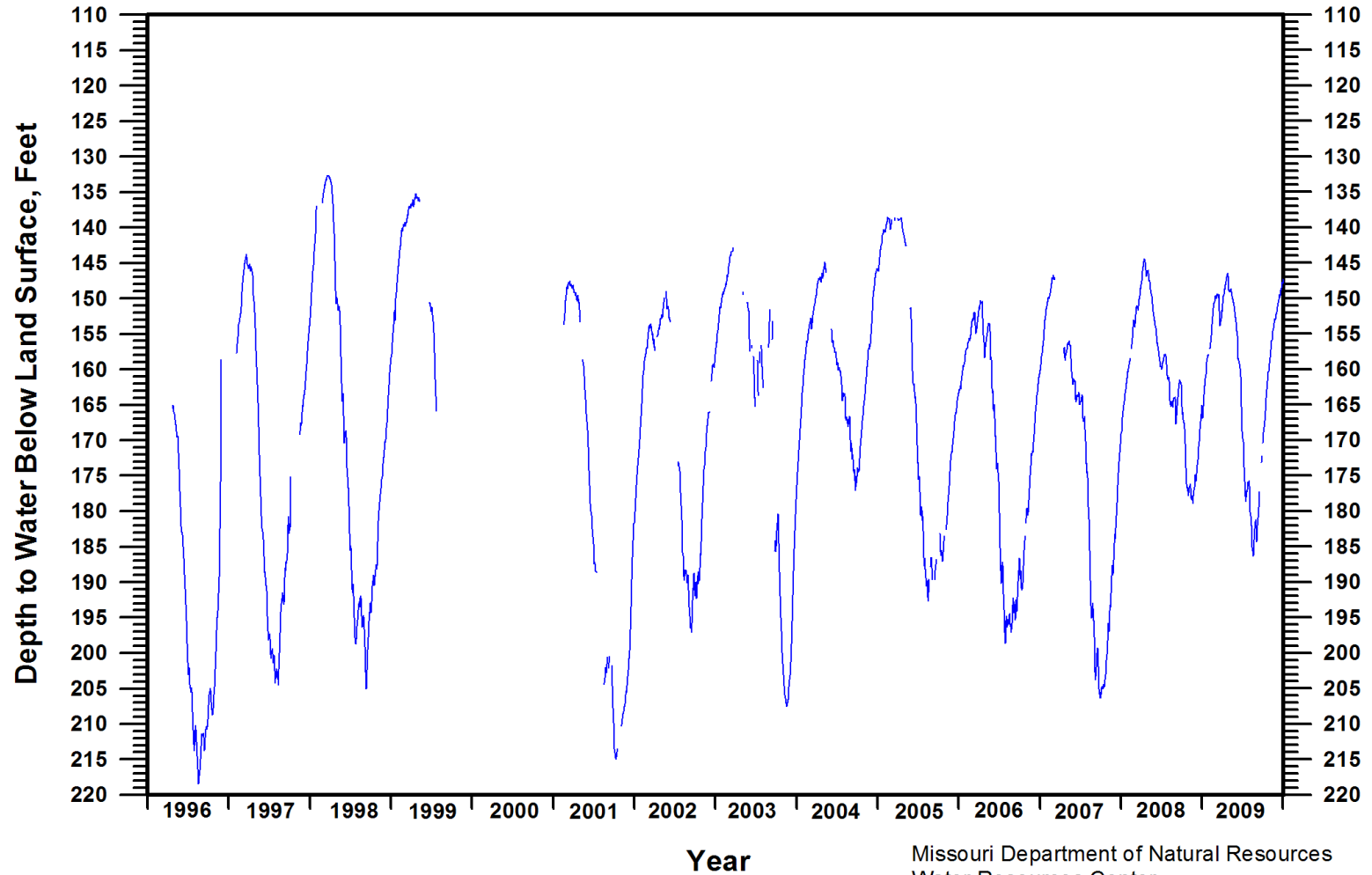
Formations open to production: Roubidoux - Derby-Doerun

Cooper Creek Observation Well, Taney County



Missouri Department of Natural Resources
Water Resources Center

Cooper Creek Observation Well, Taney County



Silver Dollar City



Period of record: March 7, 2007 to present

Elevation: 1102

Water level when drilled: 196

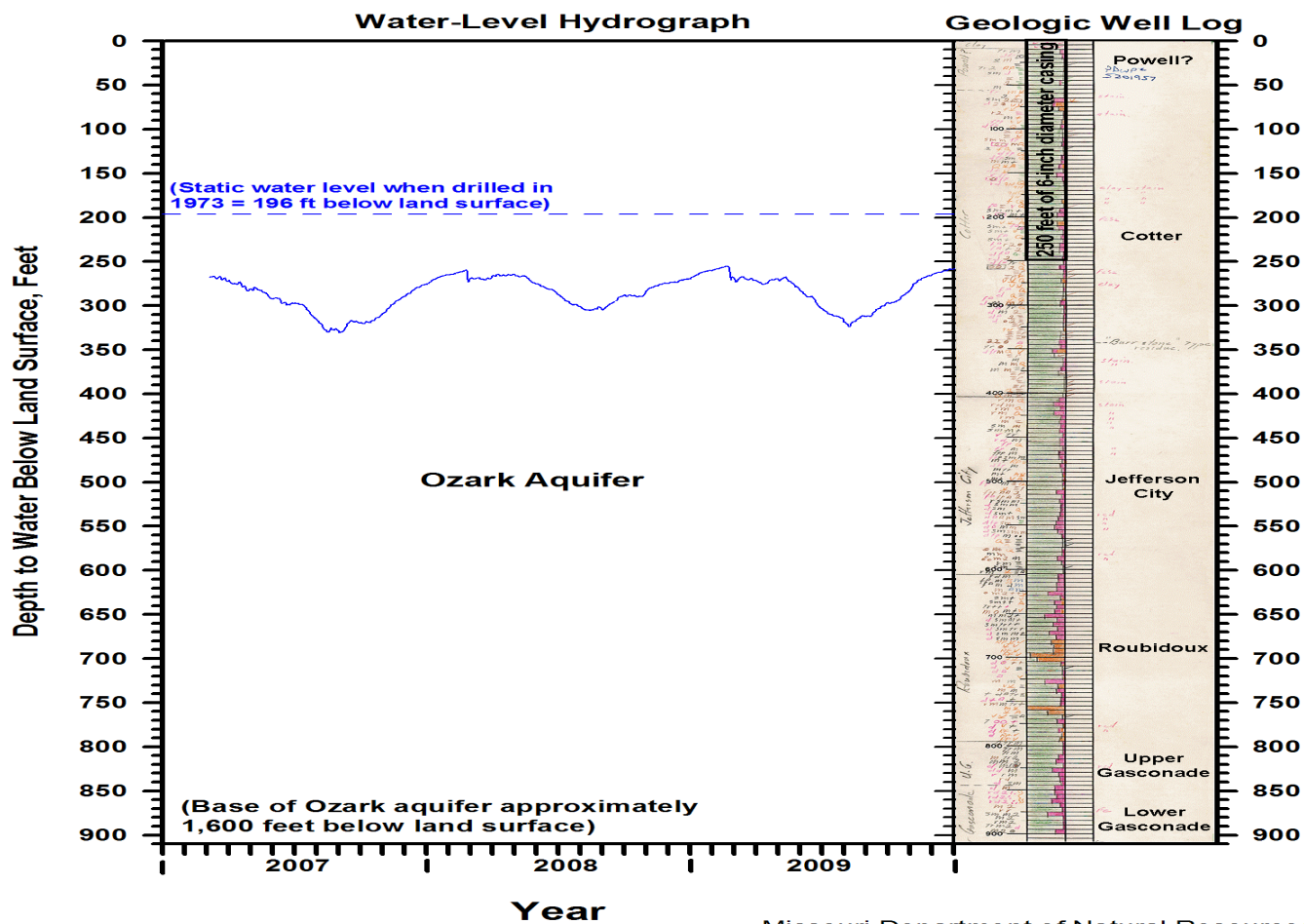
Total Depth: 910

Casing Depth: 250

Producing Aquifer: Ozark aquifer

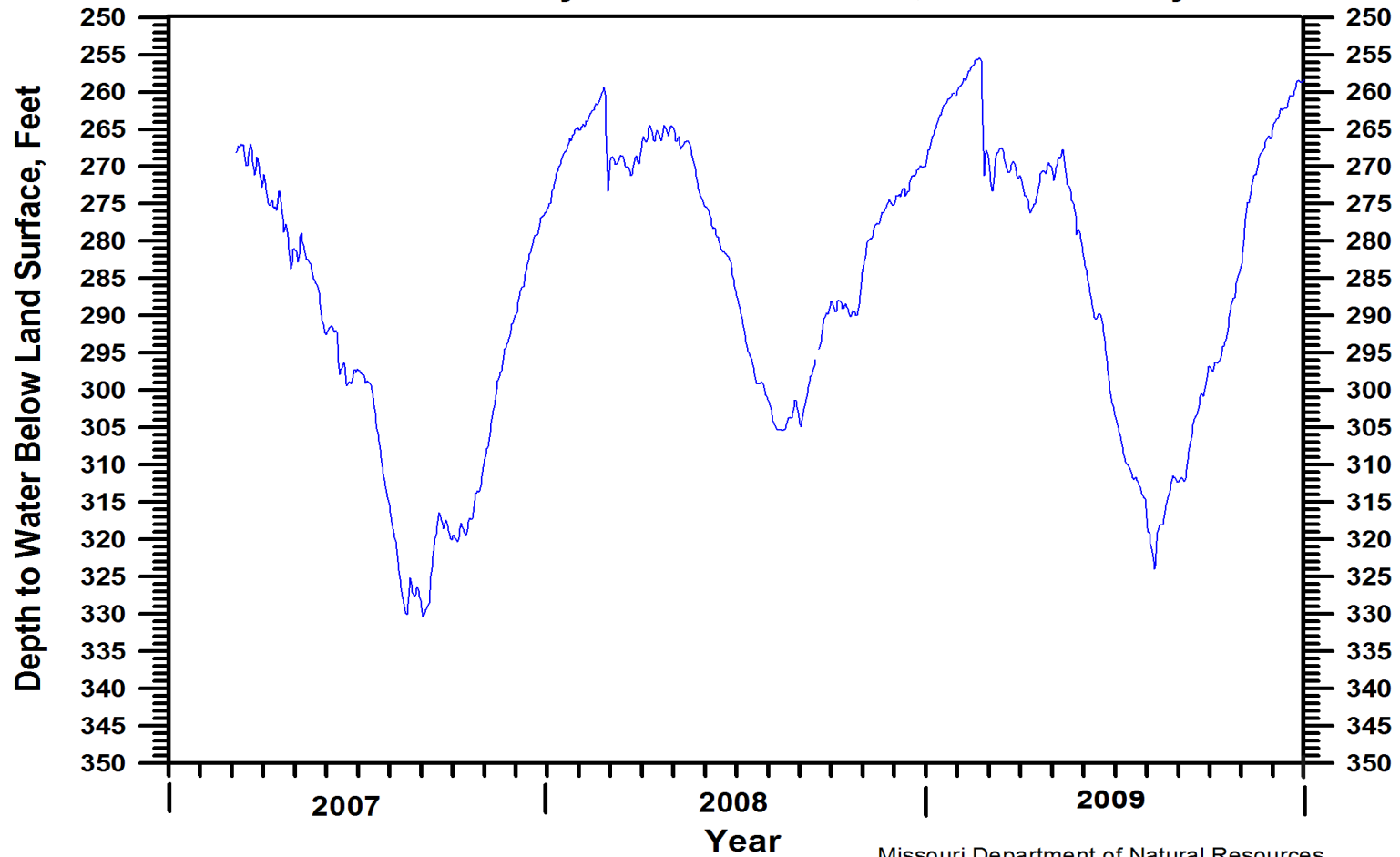
Formations open to production: Cotter - Gasconade

Silver Dollar City Observation Well, Stone County



Missouri Department of Natural Resources
Water Resources Center

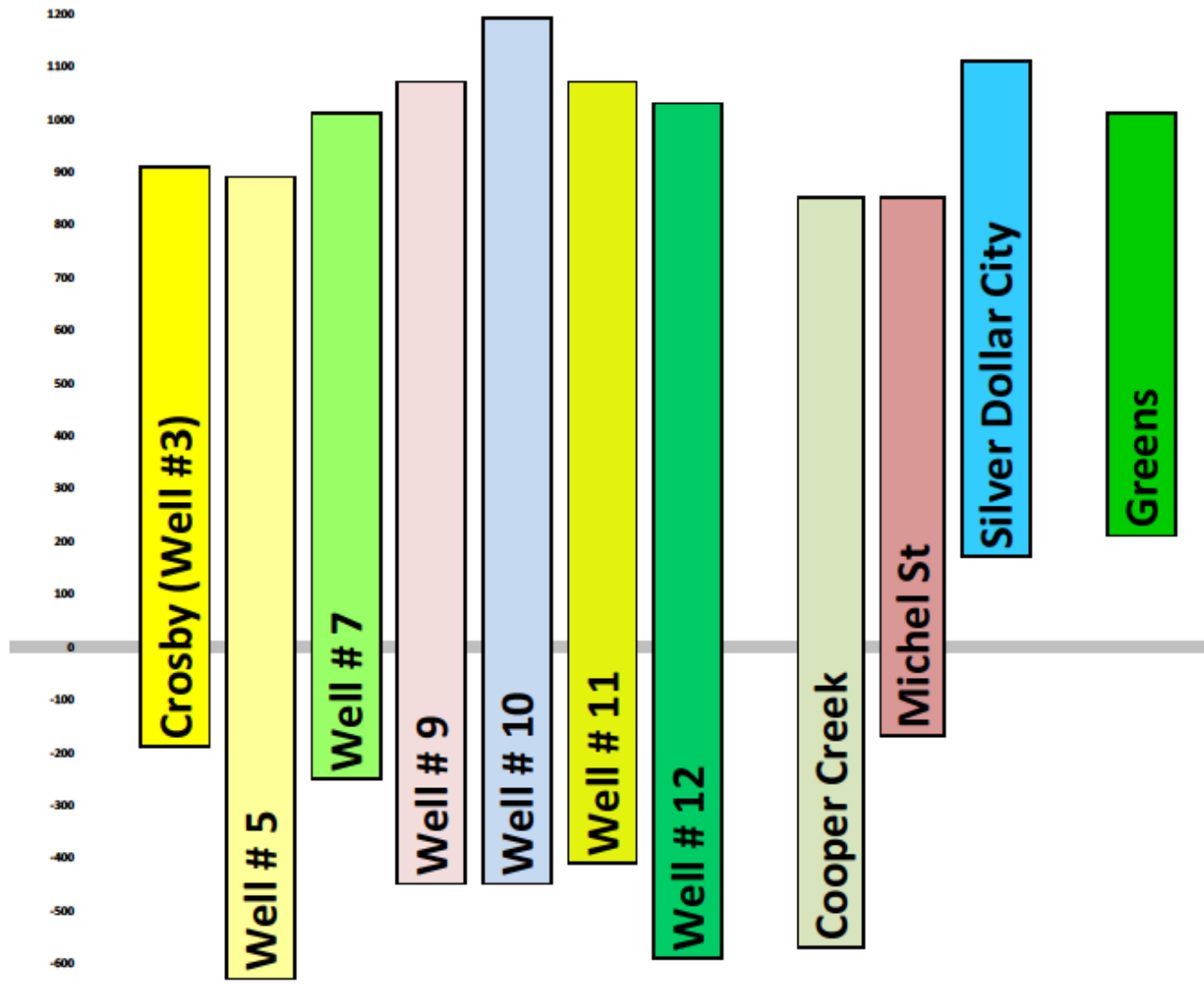
Silver Dollar City Observation Well, Stone County



Missouri Department of Natural Resources
Water Resources Center

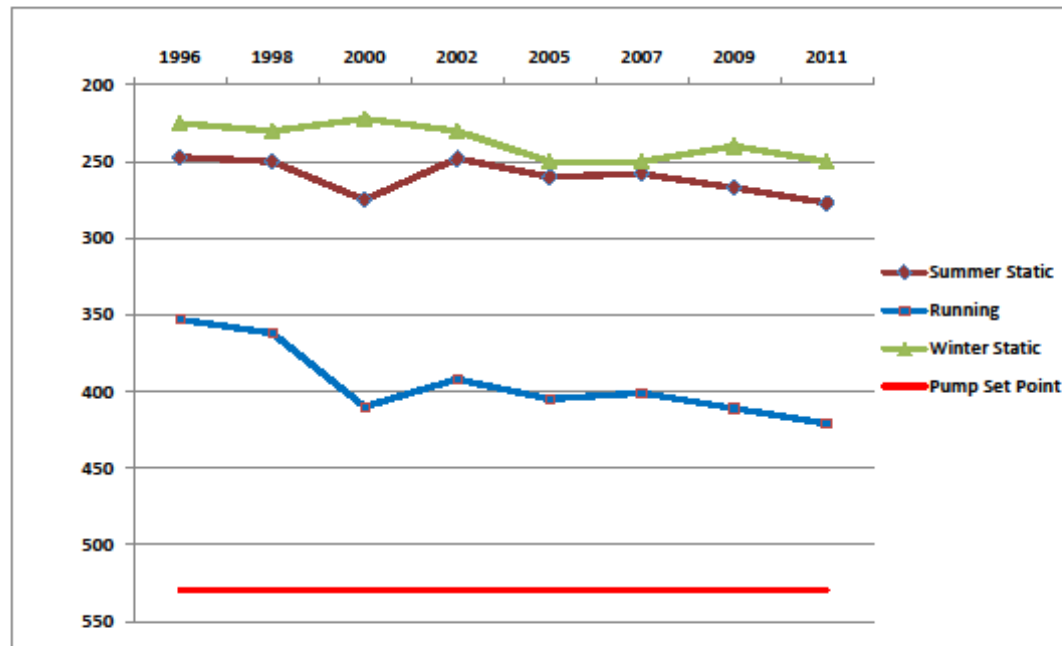
Ground Elevation and City Well Depth

	Ground Elevation	Drilled Depth	Below Sea Level
Well #3 Crosby	910	1085	-175
Well #5	905	1520	-615
Well #7	998	1242	-244
Well#9	1065	1500	-435
Well #10	1179	1620	-441
Well #11	1070	1475	-405
Well #12	1030	1600	-570
Michel Street	845	1002	-157
Cooper Creek	840	1400	-560
Silver Dollar City	1102	910	+192
The Greens	1000	790	+210



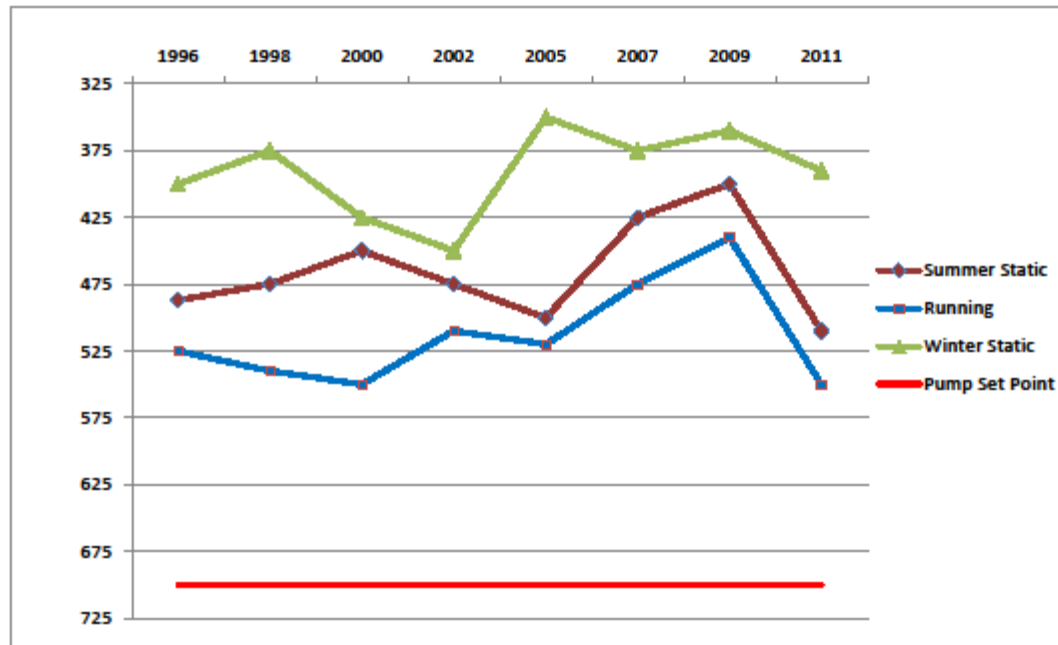
Well # 5

Current Pump Set Point = 530 ft

[illegible]

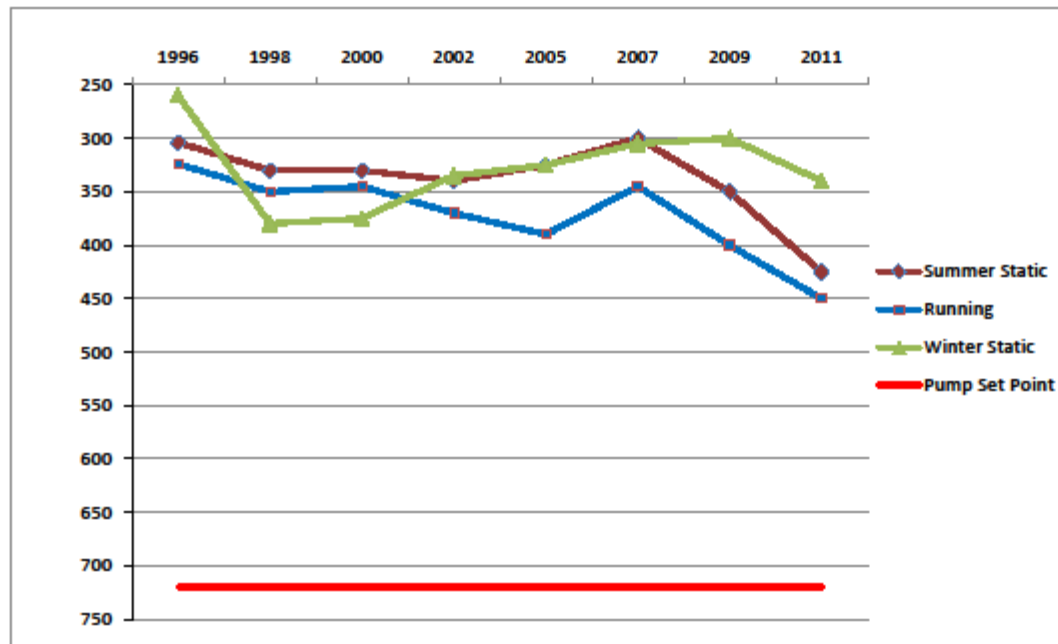
Well # 10

Current Pump Set Point = 700 ft

[illegible]

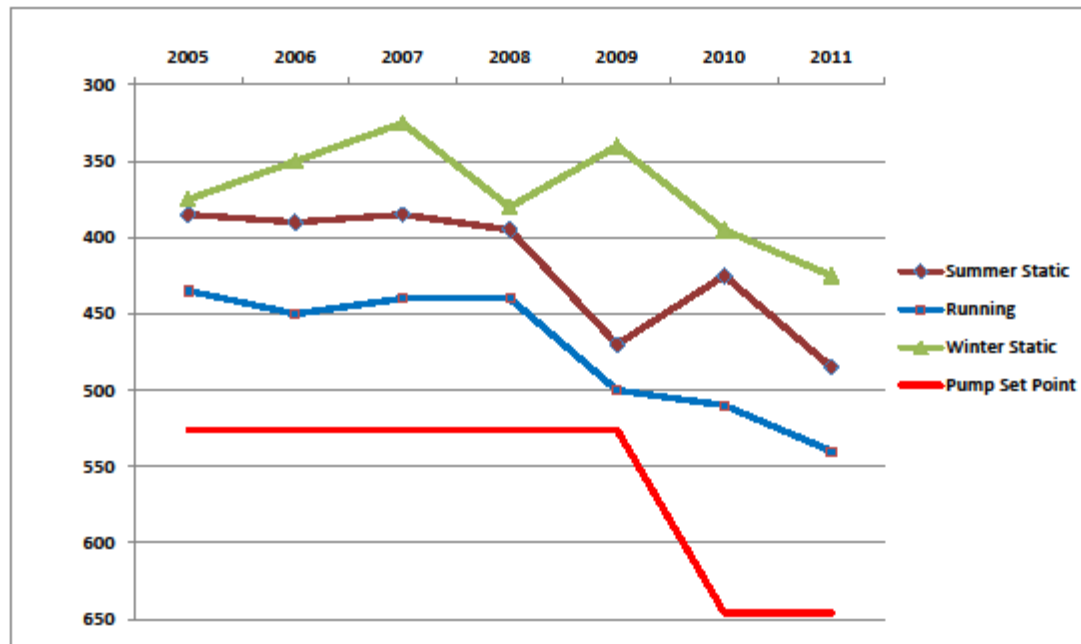
Well # 11

Current Pump Set Point = 720 ft

[illegible]

Well # 12

Current Pump Set Point = 646 ft



	2005	2006	2007	2008	2009	2010	2011
Summer Static	385	390	385	395	470	425	485
Running	435	450	440	440	500	510	540
Winter Static	375	350	325	380	340	395	425
Pump Set Point	526	526	526	526	526	646	646

Sec. 90-51. - Drilling or use of water wells.

The drilling and/or use of individual water wells within the city limits is prohibited. This requirement shall not apply in the following instances:

- (1)** On parcels of land owned by the city.
- (2)** Any such well currently in use may continue in use so long as the well is regularly operated and maintained. Any existing water well which ceases to be used for a period of 30 days shall be deemed abandoned and must be closed and no longer utilized.
- (3)** When a publicly owned water supply district desires to drill a water supply well within the city limits and within the water supply district certificated area, the city may, at its sole discretion, allow the drilling of a water supply well on the property, subject to an agreement specifically for the approval of the well, that sets forth and establishes criteria and restrictions to protect the interests of the city.

Missouri Revised Statutes

Chapter 640 Department of Natural Resources Section 640.648

August 28, 2010

Right to private water systems and ground source systems retained, exceptions.

640.648. Notwithstanding any law to the contrary, all Missouri landowners retain the right to have, use, and own private water systems and ground source systems anytime and anywhere including land within city limits, unless prohibited by city ordinance, on their own property so long as all applicable rules and regulations established by the Missouri department of natural resources are satisfied. All Missouri landowners who choose to use their own private water system shall not be forced to purchase water from any other water source system servicing their community.

(L. 2001 H.B. 501 § 4 merged with S.B. 462 § 1)

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Missouri General Assembly

CHAPTER 18

WATER

Section 18-1. Wells Inside City Prohibited.

It shall be unlawful for anyone to drill a water well within the incorporated limits of the of the City of Nixa, Missouri, when a City water line is located within one thousand (1,000) feet of the property line of the property to be served.

If the water source is available to the property owner, then such property owner must discontinue use of his private well and connect to the City water supply--the source being "available" when within one hundred (100) feet of said property line.

In any particular case where the property owner can show by reason of exceptional topographical or other physical conditions that the literal compliance with the requirements of the above provisions would cause practical difficulty or exceptional and undue hardship, the Board of Aldermen may modify such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of the above regulations or the desirable general development of the neighborhood and community in accordance with the ordinances herein above set forth.. Any modification thus granted shall be spread upon the minutes of the Board of Aldermen setting forth the reasons which, in the opinion of the Board of Aldermen, justified the modification.

CHAPTER 705: WATER

SECTION 705.010: SERVICE INSTALLATIONS TO BE MADE BY WATER DEPARTMENT ONLY--RESPONSIBILITY FOR MAINTENANCE

No water shall be furnished except through a service installed by the Water Department of the City. Such service installation shall include excavation, tapping the main, service line to the meter installation, but not beyond the property line, meter tile, meter tile cover, five-eighths (5/8) inch through three-fourths (¾) inch meter and meter connecting fittings and backfilling the installation. The cost of this installation shall be in lieu of any other main connecting fees and shall be such a fee and not a transaction in which the materials are purchased. The ownership of such service line and other appurtenances installed by the Water Department of the City shall remain with the water system of the City. The responsibility for maintenance and repairs to service lines installed as above will be that of the Water Department. The maintenance for any meter which is over five-eighths (5/8) inch through three-fourths (¾) inch in size shall remain the responsibility of the property owner. If the service line is replaced by the Water Department and if the owner executes an assignment of such service line to the Water Department, then such service line shall be the property of the Water Department and shall be maintained by such Department. (CC 1983 §112.010)

SECTION 705.095: CONNECTION REQUIRED UPON AVAILABILITY OF WATER

- A. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to a public water system, if available. Where a public water main is not available, an individual water supply shall be provided.
- B. Connection shall be within ninety (90) days after official notice to do so, provided that said public water is within three hundred (300) feet of the property line.
- C. Whenever an extension of the public water system is necessary in order to serve an applicant whose premises are located within the area served by the City, such extension shall be at the expense of the contractor/developer.
- D. A performance bond equal to the estimated cost of the water line extension on said extension shall be provided to the City. Such bond may be in the form of irrevocable letter of credit, cash or insurance. (Ord. No. 01-08, 2-15-01; Ord. No. 04-22, 4-1-04; Ord. No. 07-33, 9-20-07)

The Greens at Branson Hills

8.21 Acres Total

3.87 Acres of Green Space







Grand Palace
13.76 Acres Total
2.00 Acres of Green Space







Memo

To: Mayor & Board of Aldermen
From: Jim Lawson, Director of Planning & Development
CC: Dean Kruithof, City Administrator
Date: 11/3/2011
Re: MoDOT Annexations (US Highways 65, 76, 265, 376, 165 & 248)

Several portions of the US State Highways located within the existing city limits were never annexed. These missing segments have caused some issues regarding emergency response. Dispatchers and uniform officers are often confused whether a certain roadway is within the city's jurisdiction or the county's. Fire Chief Martin and Police Chief Crutcher support and agree with the annex these areas. We need to avoid any further potential delays caused by the confusion over jurisdictional boundaries.

Following is a summary of the proposed roadways to be included and the procedures required by MoDOT to annex those properties.

US Highway 65 (North (Exhibit 'A') – approx. 1.3 miles & South (Exhibit 'B') – approx. 0.05 miles)

- 5 (North) & 0 (South) properties notified

US Highway 76 (Exhibit 'C') (Approx. 1.5 miles)

- 5 properties notified

US Highway 265 (Exhibit 'D') (Approx. 0.6 miles)

- 4 properties notified

US Highway 376 (Exhibit 'E') (Approx. 1.75 miles)

- 9 properties notified

US Highway 165 (Exhibit 'F') (Approx. 5.1 miles)

- 42 properties notified

US Highway 248 (Exhibit 'G') (Approx. 4.4 miles)

- 43 properties notified

Voluntary Annexation of State Right-of-Way (MoDOT Procedure)

Step 1: Request for Annexation (Completed 5/13/11)

- o City submits formal letter of request for voluntary annexation to the MoDOT District office

Step 2: Preliminary Review (Completed 7/14/11)

- o MoDOT District reviews proposed right-of-way annexation

Step 3: Comment Period (Completed 8/10/11)

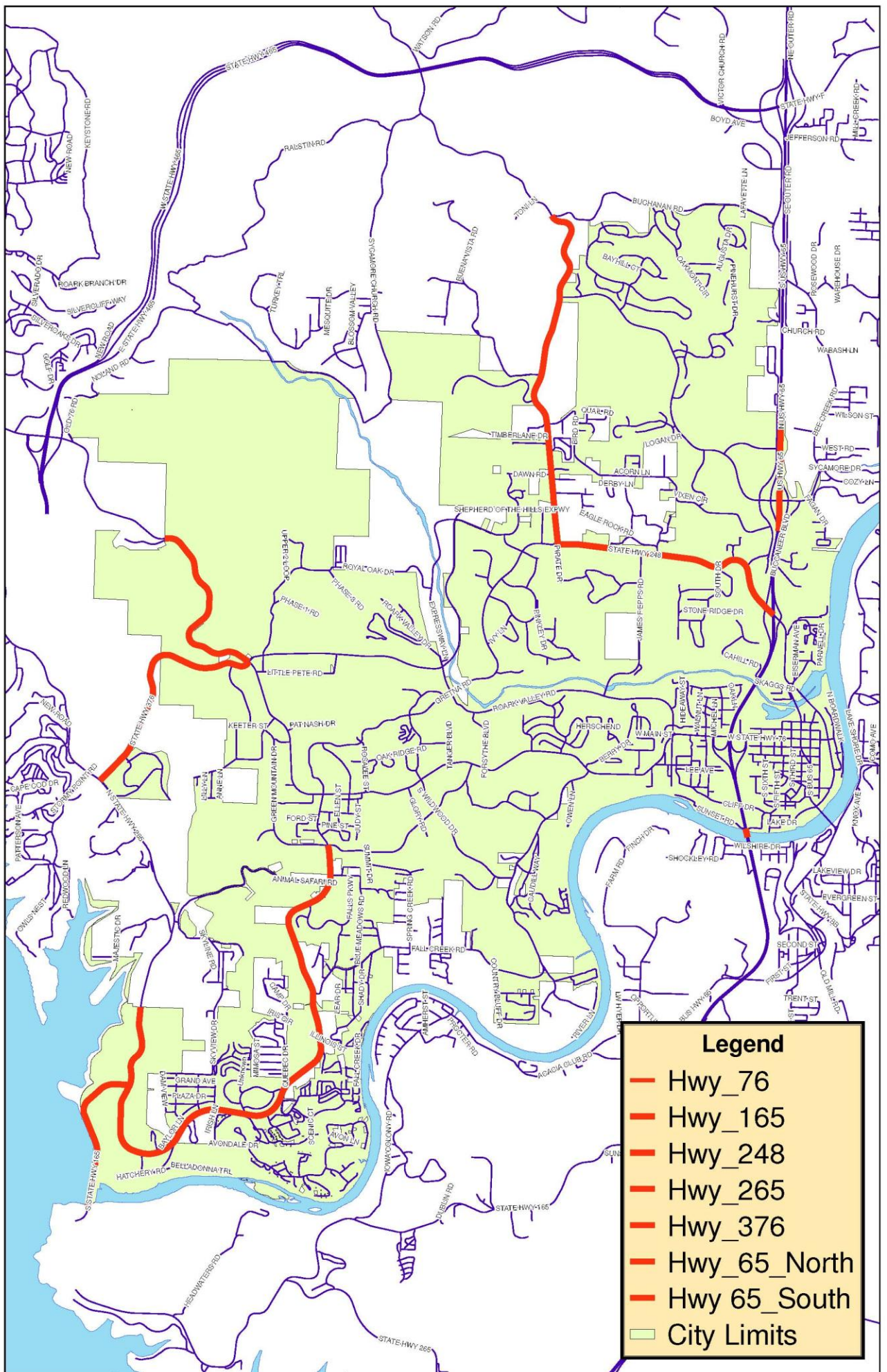
- o City solicits comments from property owners and surrounding communities
- o City allows a minimum of two weeks for these parties to respond

Step 4: Submittal of Comments (on-going)

- City sends proof of contact to the interested parties
- City provides district with all comments, including copies of letters from the interested parties and a summary of verbal comments
- A letter of concurrence is required from the County and any city within 5 miles

Step 5: Final Approval

- MoDOT District reviews comments provided by city for final approval of annexation
- If approved, the District Engineer signs the Petition for Voluntary Annexation and MoDOT sends the petition to the city
- City provides the MoDOT District with a fully signed copy of the petition and a copy of the annexation ordinance and MoDOT District will then move city limit signs
- *The speed limit on a highway does not change because a highway is annexed.* In 2-3 months, MoDOT District may initiate a traffic study to determine if the speed limit should be changed from what it was prior to the annexation.



MoDOT ANNEXATIONS

Branson, MO

Step 1

Request

Completed

5/13/2011

for Annexation

- ✓ City submits a formal letter of request for voluntary annexation to the MoDOT District office. The letter must include:
 - ✓ Legal description of state right-of-way to be annexed
 - ✓ City map showing current city boundaries, the area to be annexed, and lot lines in and adjacent to the area to be annexed
 - ✓ Reasons for annexation
 - ✓ Any other information to explain the circumstances of the annexation
 - ✓ Submit a separate request for each highway to be annexed

MoDOT ANNEXATIONS

US Highway 65

0

properties notified

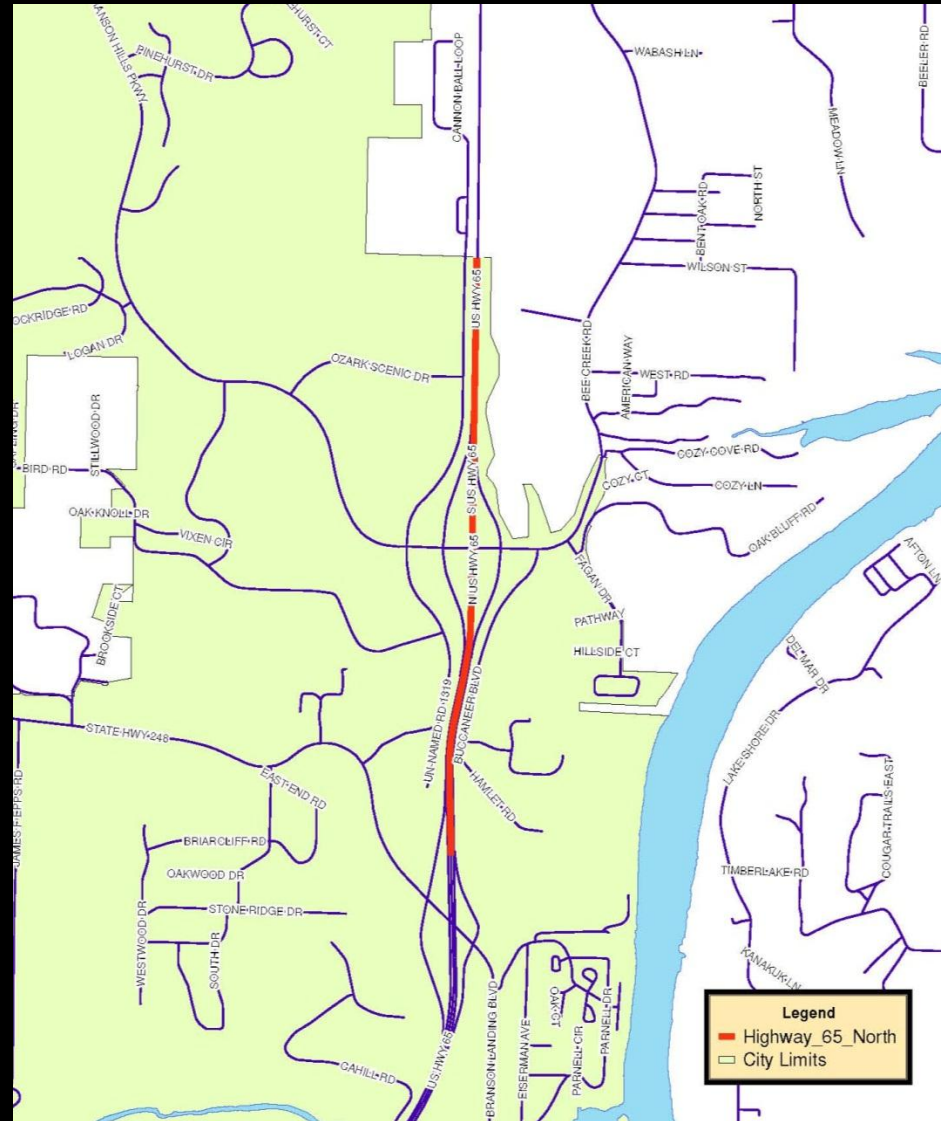


MoDOT ANNEXATIONS

US Highway 65

5

properties notified

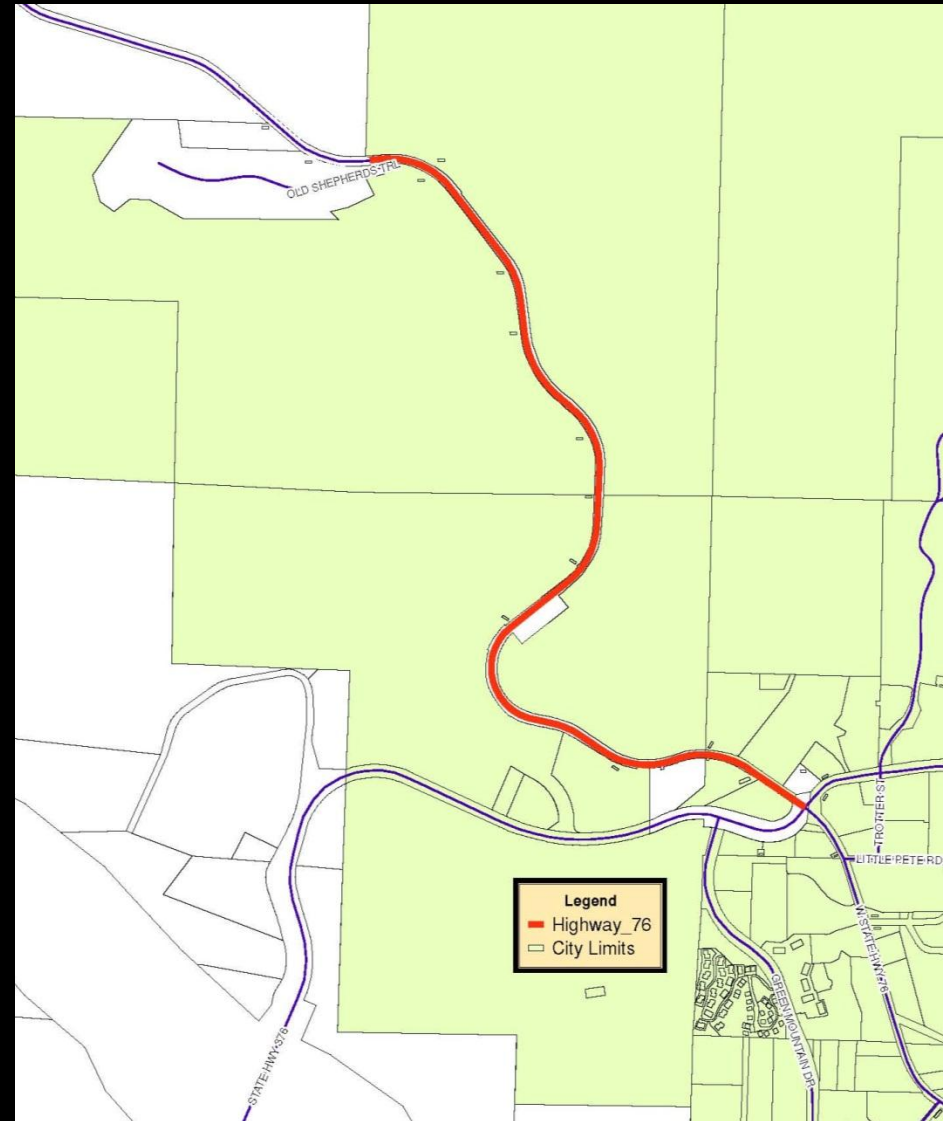


MoDOT ANNEXATIONS

US Highway 76

5

properties notified



MoDOT ANNEXATIONS

US Highway 265

4

properties notified

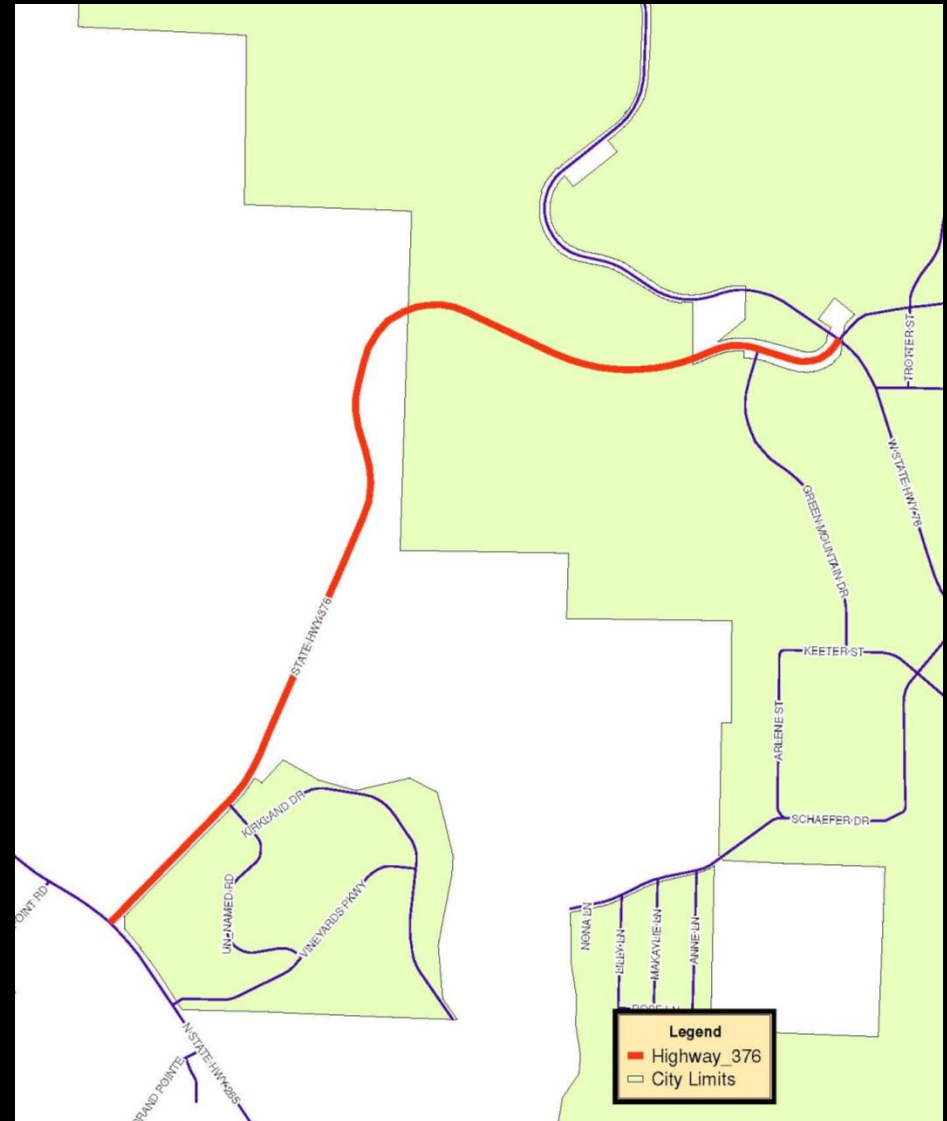


MoDOT ANNEXATIONS

US Highway 376

9

properties notified



MoDOT ANNEXATIONS US Highway 165

42

properties notified

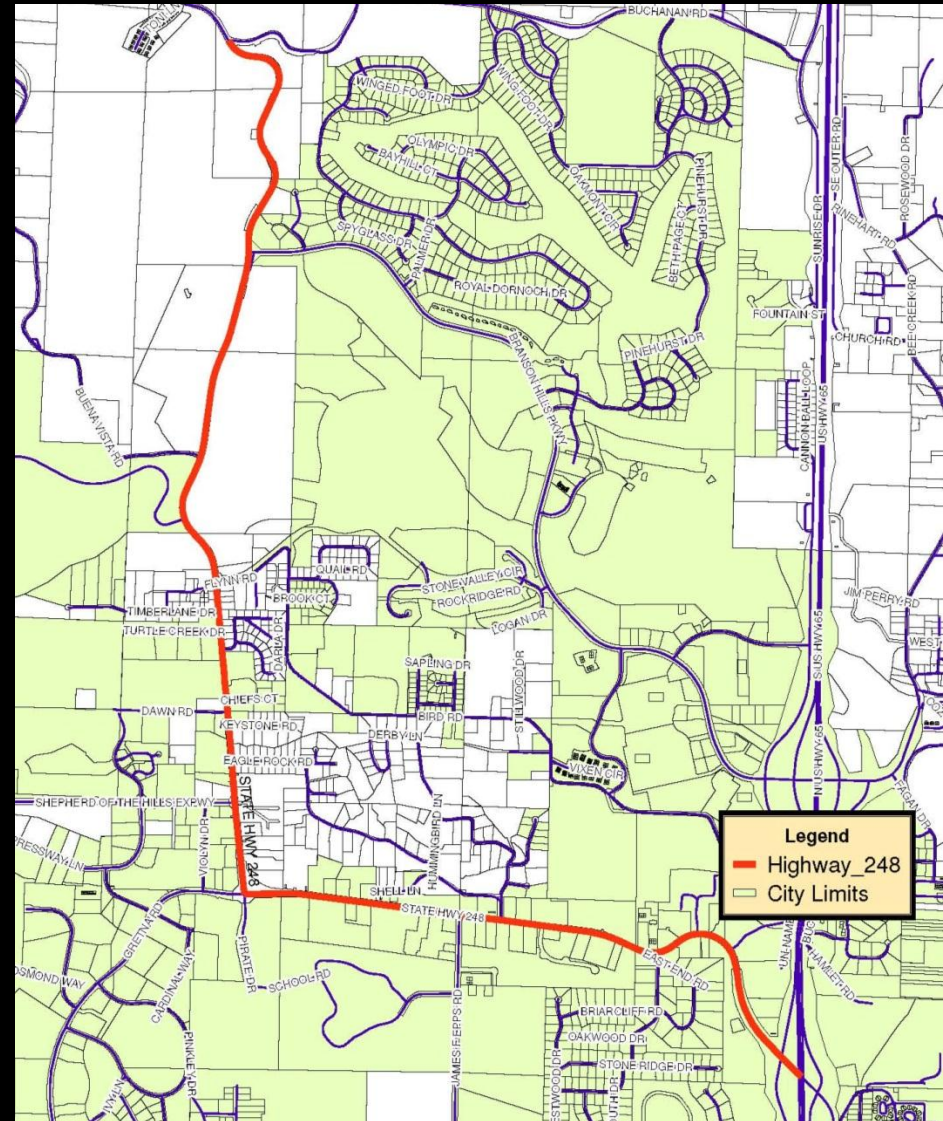


MoDOT ANNEXATIONS

US Highway 248

43

properties notified



MoDOT ANNEXATIONS

Branson, MO

Step 2

Completed

7/14/2011

Preliminary Review

- ✓ The MoDOT District reviews the proposed right-of-way annexation
 - ✓ The MoDOT District will evaluate the impact of the annexation
 - ✓ Annexations that are initiated for the sole purpose of lowering the speed limit will be denied
- ✓ If the MoDOT District has no objections to the annexation, the city will be sent a packet of information and notified in writing to proceed to Step 3

MoDOT ANNEXATIONS

Branson, MO

Step 3

Completed

8/10/2011

Comment Period

- ✓ City solicits comments from the following parties:
 - ✓ all property owners adjacent to state right-of-way that is to be annexed (except those already in the city)
 - ✓ all other cities within 5 miles of the proposed annexation
 - ✓ the County commission
- ✓ The City should allow a minimum of two weeks for these parties to respond
- ✓ After the comment period, the city may proceed to Step 4

MoDOT ANNEXATIONS

Branson, MO

Step 4

On-going

Submittal of Comments

- ✓ City sends proof of contact to the interested parties listed in Step 3:
 - ✓ copies of the letter sent to interested parties
 - ✓ copy of registered mail receipts
- City provides the district with all comments, including copies of letters from the interested parties and a summary of verbal comments:
 - A letter of concurrence is required from the County
 - A letter of concurrence is required from any city within 5 miles

MoDOT ANNEXATIONS

Branson, MO

Step 4

On-going

Submittal of Comments

- Letters of Concurrence:
 - Taney County
 - City of Branson West
 - City of Hollister
 - City of Rockaway Beach
 - Bull Creek Village
 - ✓ Village of Indian Point
 - Village of Kirbyville
 - ✓ Village of Merriam Woods

MoDOT ANNEXATIONS

Branson, MO

Step 5

Final

Approval

- MoDOT District reviews comments provided by city for final approval of annexation
- If approved, the District Engineer signs the Petition for Voluntary Annexation and MoDOT sends the petition to the city
- City provides the MoDOT District with a fully signed copy of the petition and a copy of the annexation ordinance
- MoDOT District will then move city limit signs
- *The speed limit on a highway does **not** change because a highway is annexed.* In 2-3 months, MoDOT District may initiate a traffic study to determine if the speed limit should be changed from what it was prior to the annexation

EXHIBIT 'A'

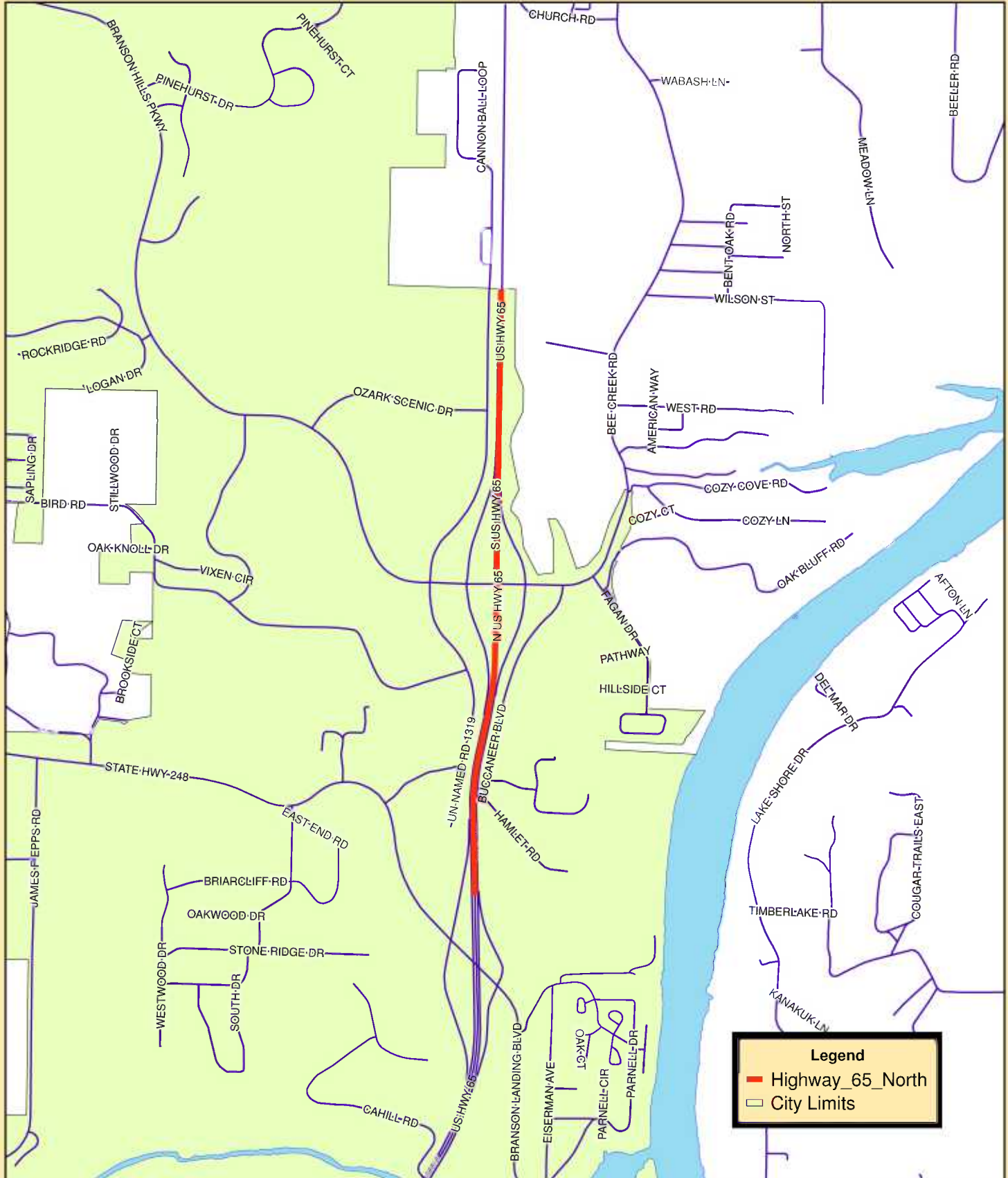
US Highway 65 ROW Annexation

City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
May 2011



0 230 460 920 1,380 1,840 Feet



Legend

- Highway_65_North
- City Limits

EXHIBIT 'B'

US Highway 65 ROW Annexation

City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
May 2011



0 45 90 180 270 360 Feet

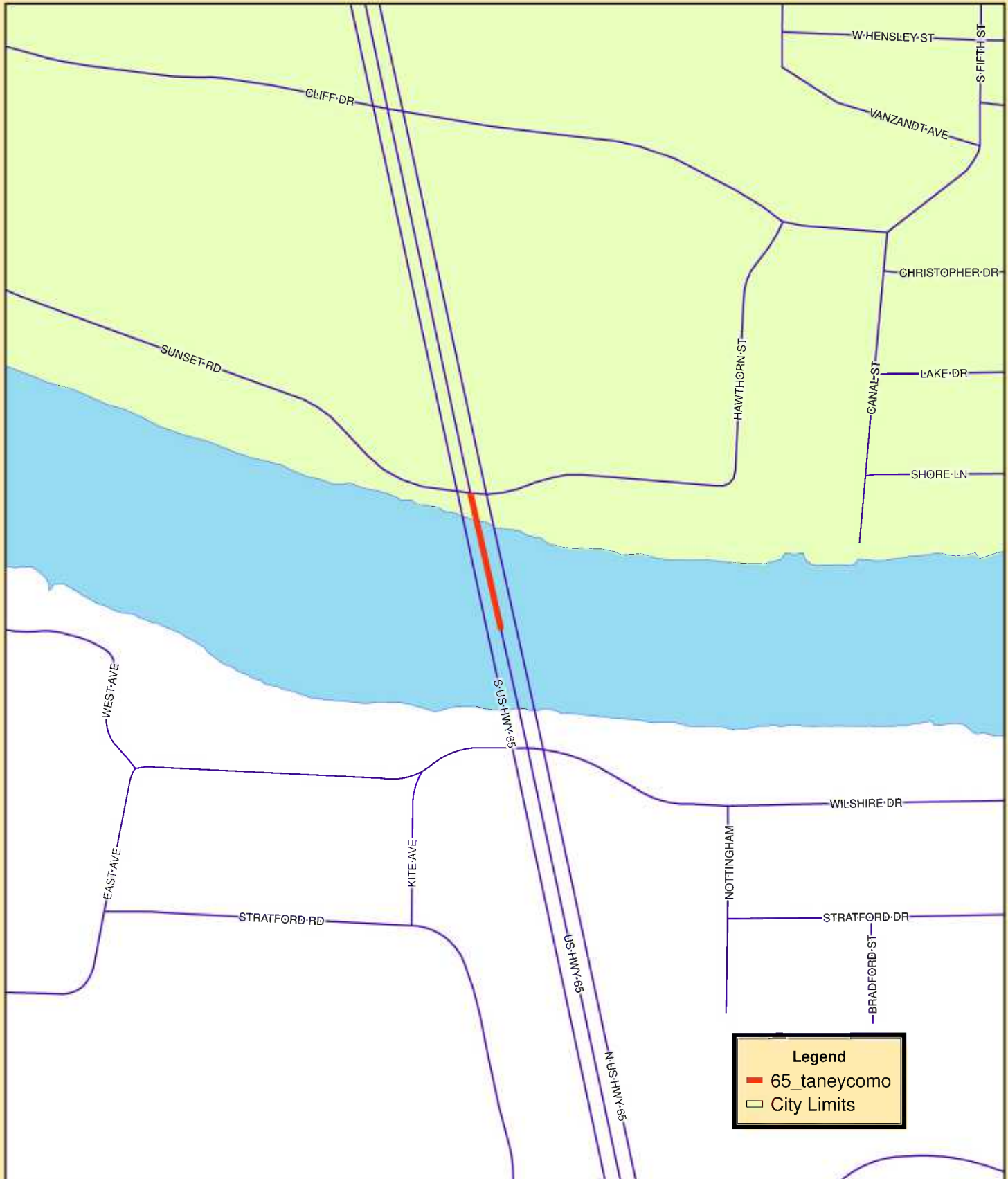


EXHIBIT 'C'

State Highway 76 ROW Annexation

City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
January 2011



0 137.5 275 550 825 1,100 Feet

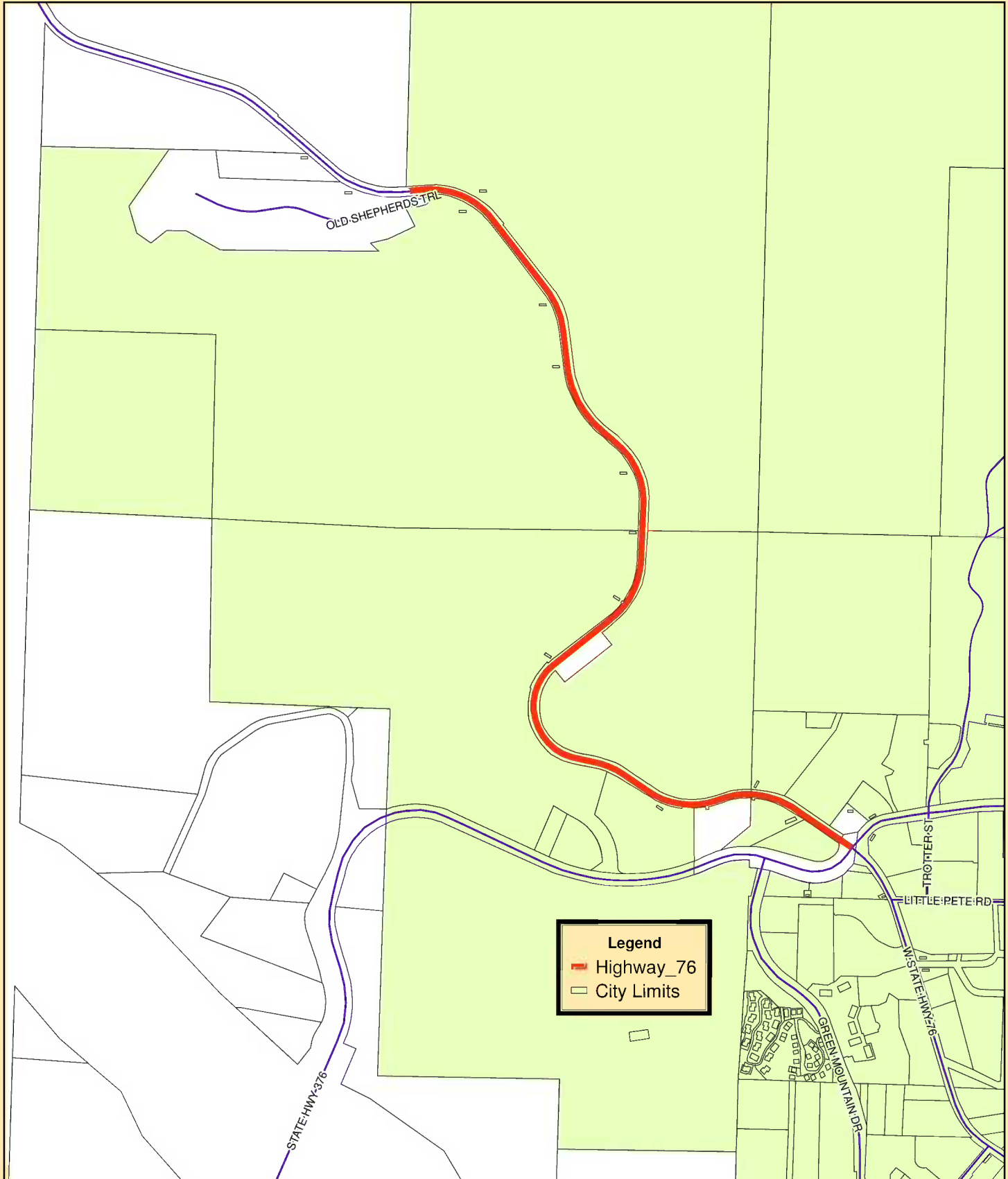
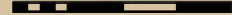


EXHIBIT 'D'

State Highway 265 ROW Annexation

City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
May 2011



0 95 190 380 570 760 Feet

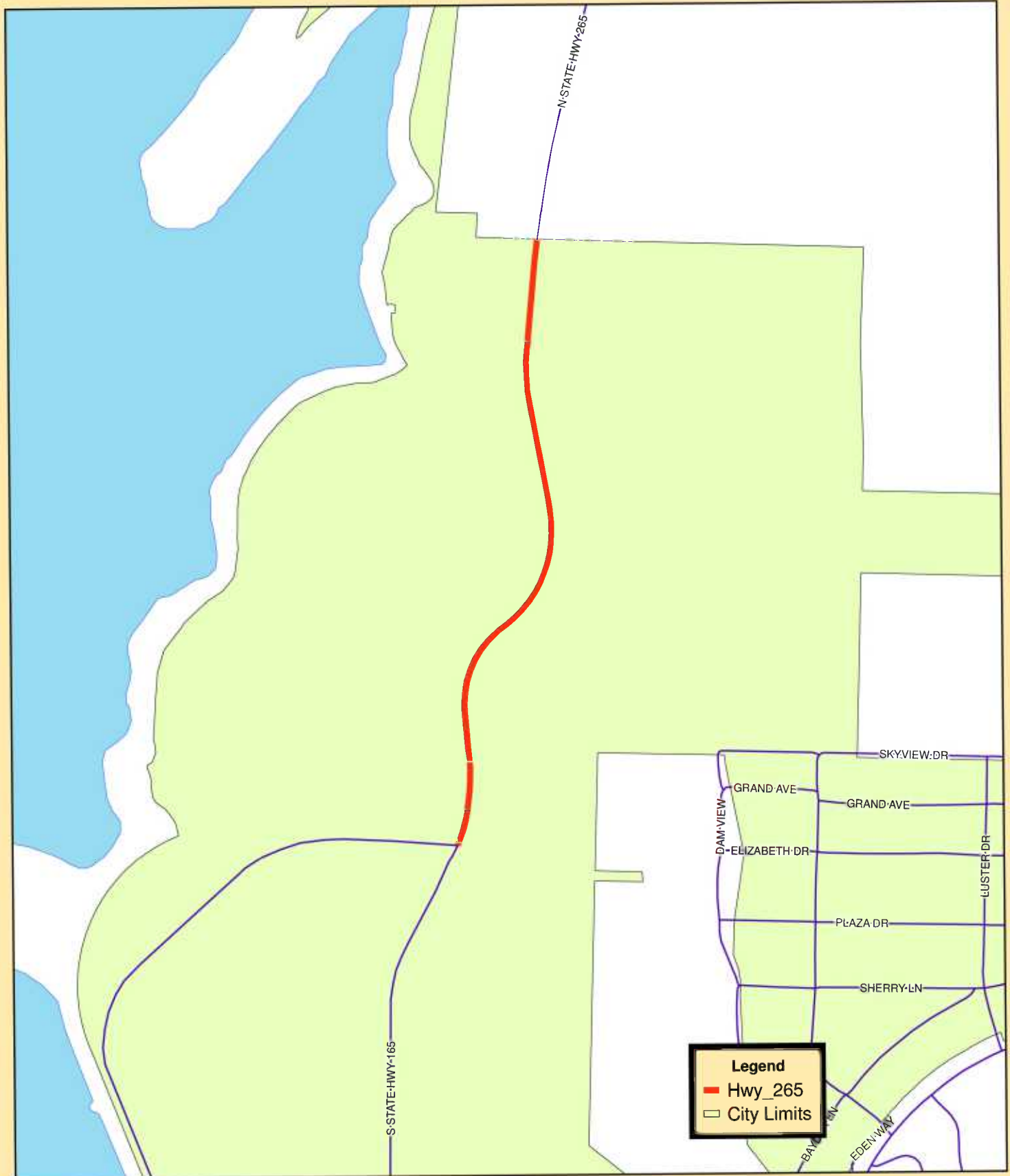


EXHIBIT 'E'

State Highway 376 ROW Annexation

City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
January 2011



0 150 300 600 900 1,200 Feet

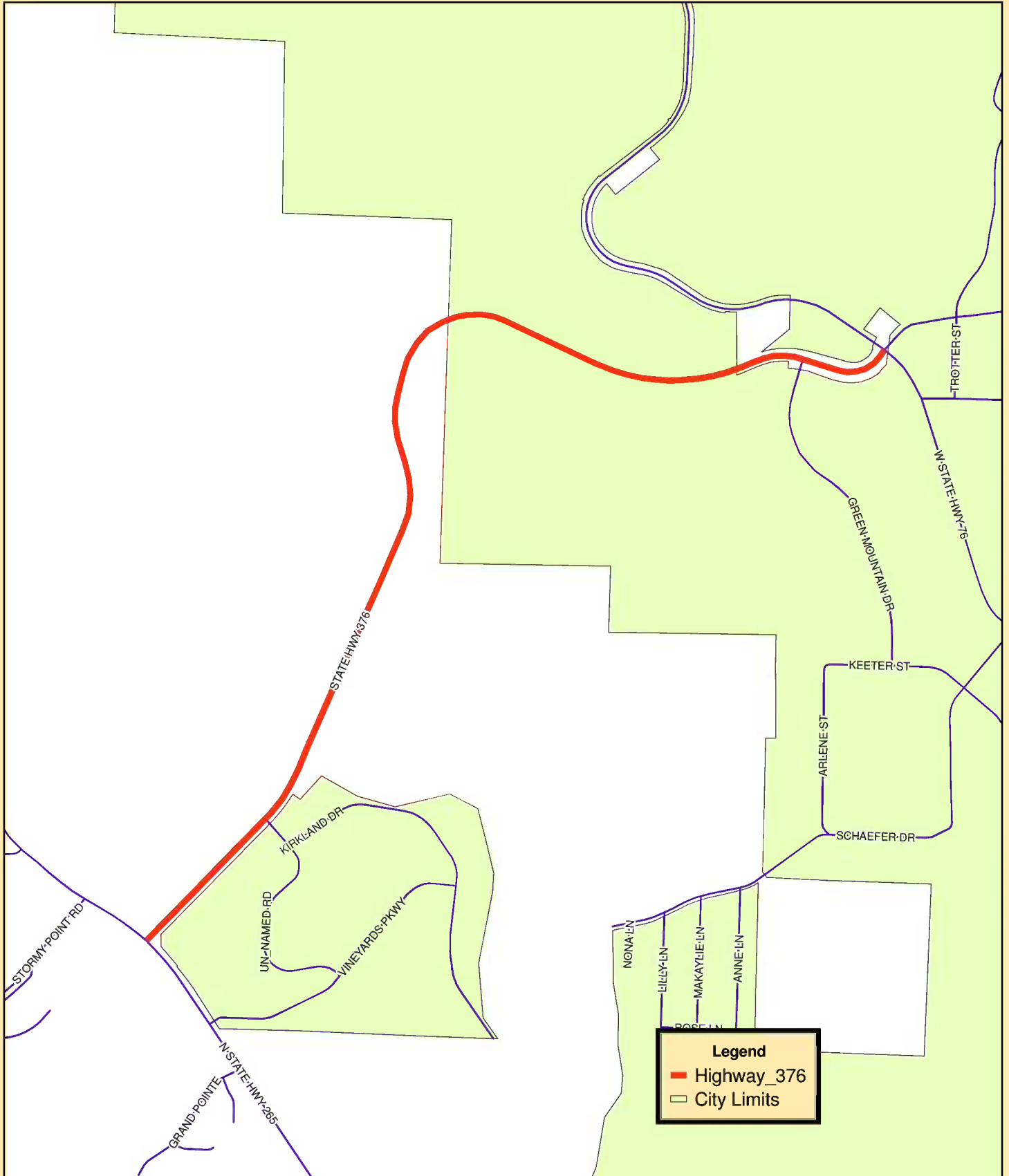




EXHIBIT 'G'

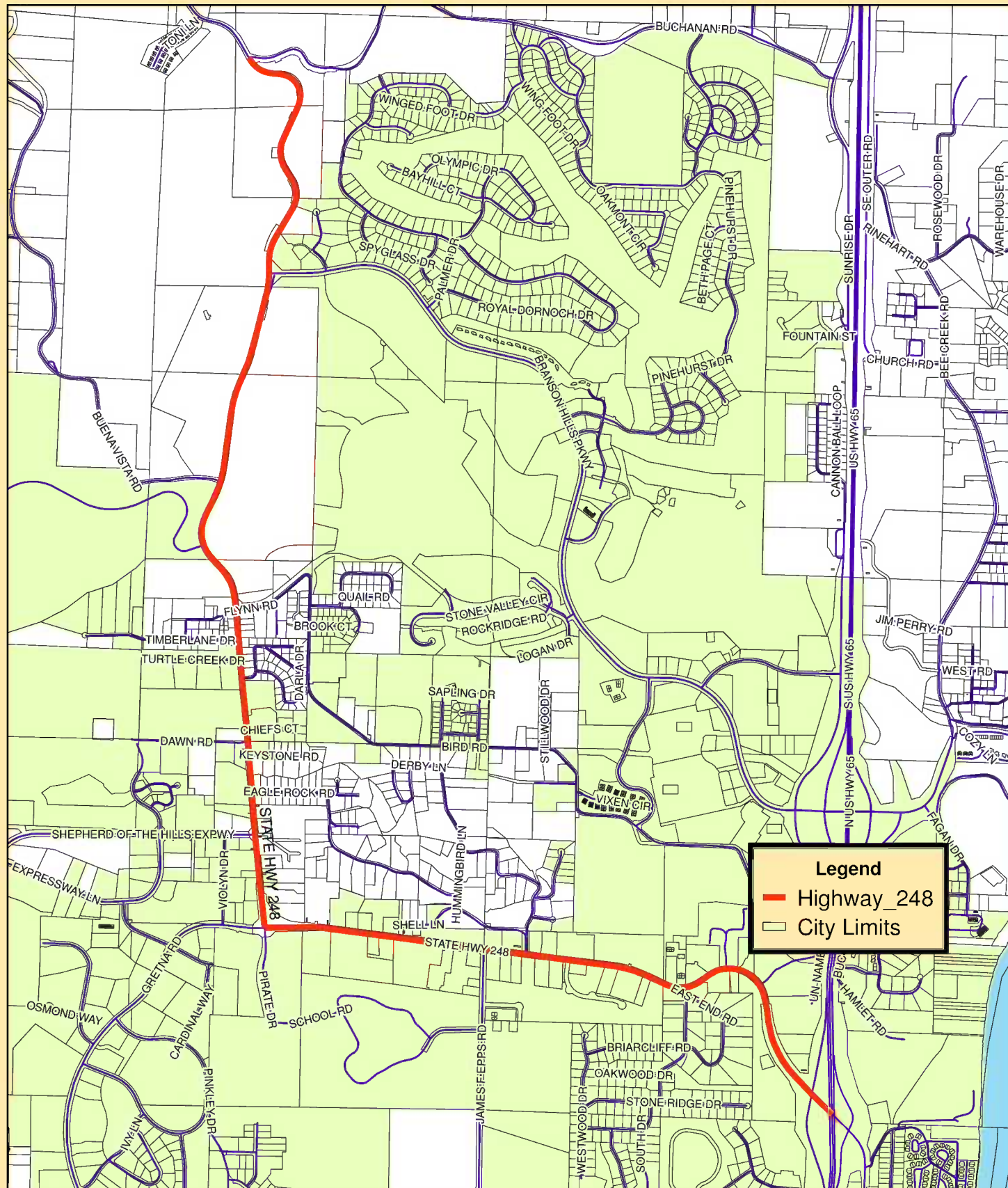
State Highway 248 ROW Annexation

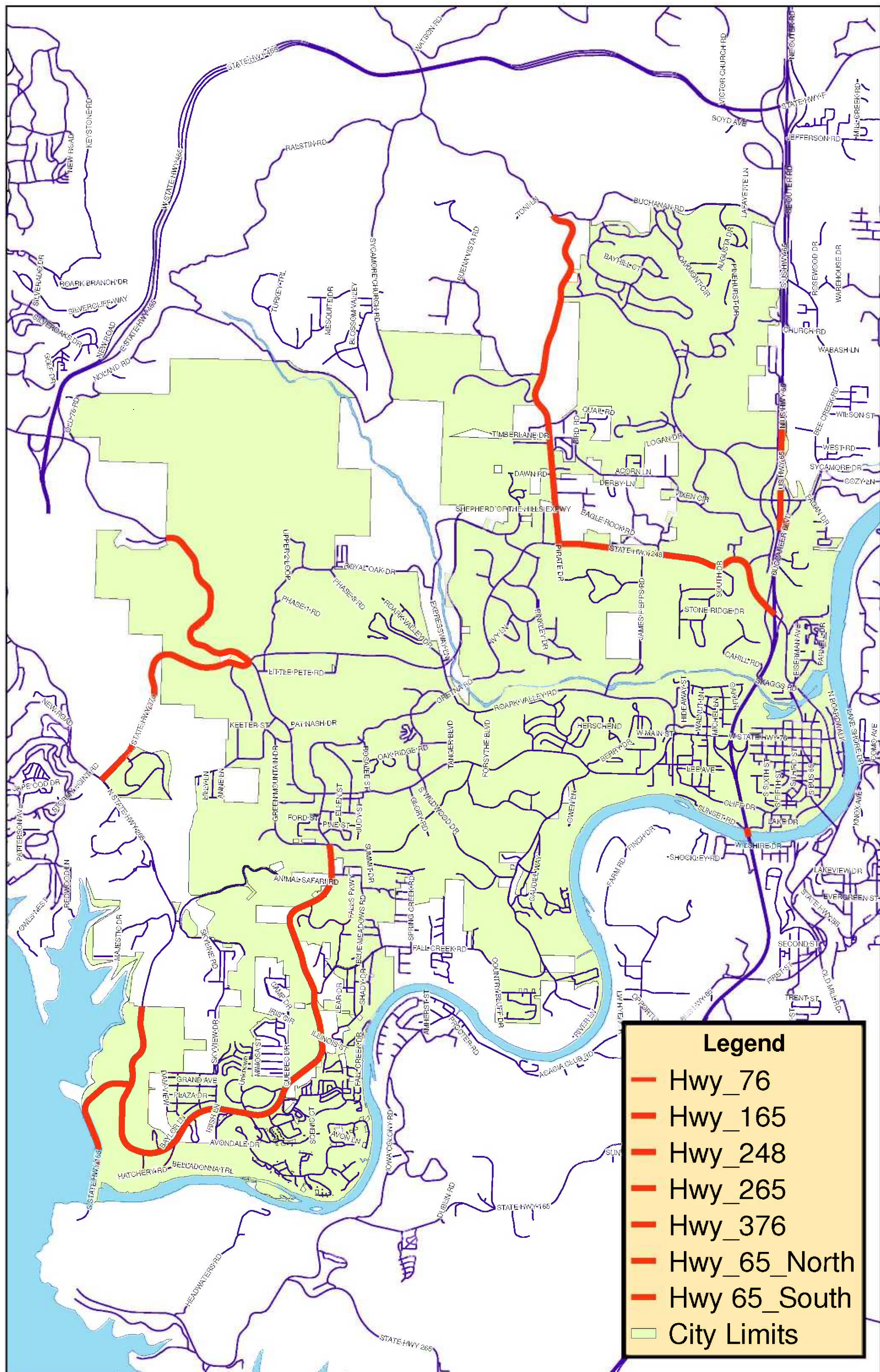
City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
May 2011



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Memo

To: Mayor & Board of Aldermen
From: Jim Lawson, Director of Planning & Development
CC: Dean Kruithof, City Administrator
Date: 10/31/2011
Re: Code Revisions – Chapter 400 – C Commercial Uses Allowed & Special Uses

Earlier this year, the Planning & Development Department was asked to review the city's existing codes and ordinances pertaining to special uses to identify areas for improvement. After review, staff found several opportunities for not only improvement, but also for clarification.

For more clarity, several definitions are being proposed within Chapter 400 for both existing terms, and new terms. Clarity is also being proposed through revised lists for both permitted uses and special uses. Moving forward, the main distinction between permitted uses and special uses will be if that specific use occurs within a structure or not. As an example, a typical retail establishment is considered an indoor use and therefore is listed as a permitted use. In contrast, an animal kennel operation typically includes outdoor runs and is therefore being recommended to be added to the list of special uses due to the potential effects it could have on its neighboring properties. Although a theater and a museum are typically indoor uses as well, due to the potential impacts they may have on surrounding properties, these uses are being recommended to remain as uses requiring a special use permit.

At the same time, staff had been asked to make improvements to the city's codes dealing with the display of wares. As a result, staff is proposing for those additions to be considered at this time as well under the special use section.

Additionally, there have been several discussions regarding the transferability of a special use permit. Thus, within Section 405.040, two additional subsections are being recommended to address this topic. The first states that a special use shall stay with the property and shall be transferable from owner to owner barring any substantial changes or modifications of the operation. The other states that a special use permit shall be valid for an unlimited period of time unless otherwise specified for a particular permit. Additionally, any permit with a time limit may have it reviewed by the Planning & Zoning Commission to extend it for an unlimited period or for a specified additional number of years.

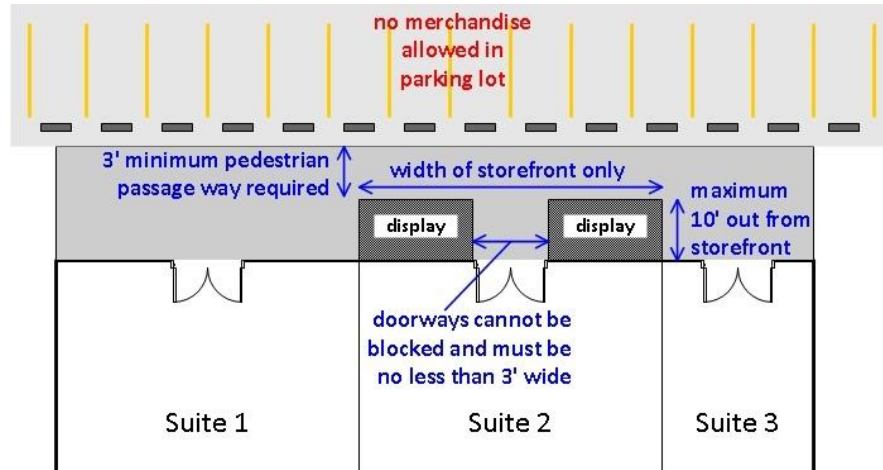
Following are more details for all of the proposed code changes to Appendix A, Sections 400.040, 405.030, 405.040 and 410.040 pertaining to uses permitted and special uses. These details also include the recommendation from the Planning & Zoning Commission and actual code changes for your review and discussion.

- **Section 400.040. Definitions.**
 - Additions: Animal hospital, Animal kennel, *Antique shop*, Art gallery, Auto rental, *Auto repair*, *Auto sales*, *Bank and financial institution*, *Barber[shop] and beauty shop*, Billiard hall, Bowling alley, Car wash, *Church*, Commercial recreation, indoor, Commercial recreation, outdoor, Community center, Convenience food store, *Drugstore or pharmacy*, *Dry cleaners*, Exhibition center, *Feed store*, *Florist*, Go-kart track, *Golf course*, *Government office*, *Grocery store*, Laundromat, Laundry pick-up station, Library, *Lumberyard*, *Massage establishment*, Medical office or clinic, Miniature golf, *Mobile home*, Museum, Recording studio, *Newspaper publishing*, *Newsstand*, Pet groomer, Pet shop, Portable structure, *Professional and general offices*, *Public utility offices*, Rental storage operations, *Restaurant*, *School, public, private or denominational*, *Service station*, *Theater*, *Wares*, *Wholesale operations*.
- **Section 405.030. Nonconforming structures and uses.**
 - Increase the time period from six (6) months to twelve (12) months for which a nonconforming use could cease before it would be required to conform to the regulations for its district
 - Change the term “*conditional use*” to “*special use*” to match the current terminology
- **Section 405.040. Special uses.**
 - Remove “*existing structures nor to*” as special uses are never tied to structures but only to property
 - Add a statement about the transferability of a special use permit being allowed barring any substantial changes or modifications to the operation
 - Add a statement about a special use permit being valid for an unlimited period of time unless a shorter time is determined by the Commission, which can then be extended by the property owner upon request
- **Section 410.040. C commercial district regulations.**
 - **Uses permitted.**
 - Additions: Art gallery, Commercial recreation, indoor, Community Center, Convenience food store, Laundromat, Laundry pick-up station, Library, Medical office or clinic, Pet groomer, Pharmacy, Recording studio & Wares (not displayed within parking area – See Exhibit A-Figure 1)
 - Additions from Special Uses Permitted: Dry cleaners, Government office, Pet shop
 - Removals: Appliance store, Arts and crafts, Clothing and shoe store, Furniture store, Hardware store, Music store and studio, Self-service laundry, Sporting goods store, Planned development
 - **Special uses permitted.**

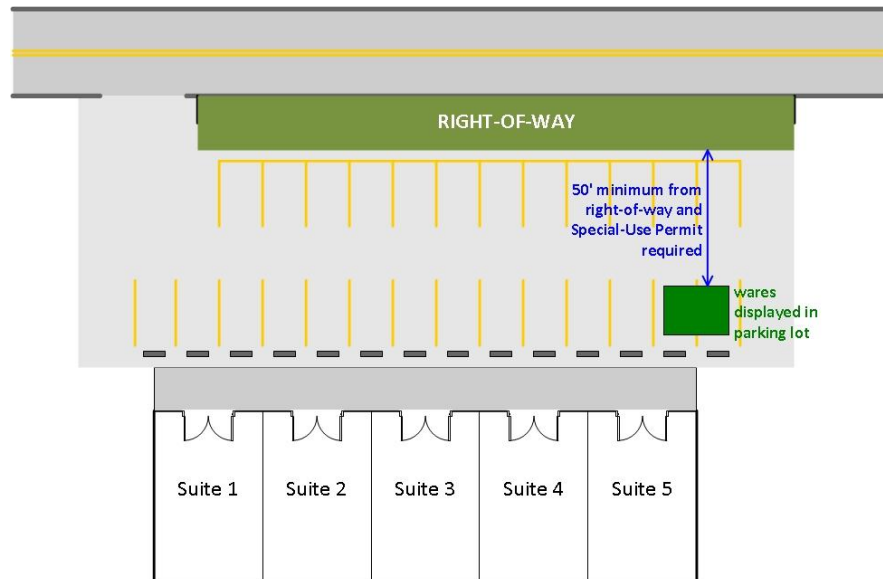
- Additions: Animal kennel, Auto rental, Car wash, Museum or exhibition center, Rental storage operations, Wares (displayed within parking area – See Exhibit A-Figure 2)
- Removals: Dry cleaners, Government office, Pet shop

○ **Wares (Permitted use & Special use)**

- Intent: to enhance the aesthetics along the community's major corridors.
- Permitted use



- Special use



PLANNING AND ZONING COMMISSION

RESOLUTION NO. 11-12.1 (11-01200001)

A PLANNING COMMISSION RESOLUTION RECOMMENDING APPROVAL OF A MUNICIPAL CODE AMENDMENT TO APPENDIX A, SECTIONS 400.040, 405.030, 405.040 AND 410.040 PERTAINING TO USES PERMITTED AND SPECIAL USES.

WHEREAS, certain areas of the Branson Municipal Code are in need of amendment; and,

WHEREAS, it is the desire of the Planning and Zoning Commission for the City of Branson to have zoning regulations in the Branson Municipal Code that are clear and concise for understanding and interpretation; and,

WHEREAS, it is the desire of the Planning and Zoning Commission for the City of Branson to insure that the Zoning Ordinance is current and user friendly; and,

WHEREAS, the Planning and Zoning Commission for the City of Branson has determined that amendments to the Branson Municipal Code are reasonable and necessary; and,

WHEREAS, the Zoning Regulations for the City of Branson, Missouri, require a Public Hearing before the Planning and Zoning Commission for amendments to the Land Use Regulations; and,

WHEREAS, a Public Hearing was held before the Branson Planning and Zoning Commission on August 2, 2011, at 7:30 pm, in the City Council Chambers located at 110 W. Maddux St., Branson, Missouri.

BE IT THEREFORE RESOLVED, that the Planning and Zoning Commission for the City of Branson hereby recommends approval of a Municipal Code Amendment to Appendix A, Sections 400.040, 405.030, 405.040 and 410.040 pertaining to Uses Permitted and Special Uses, as described by Exhibit 'A', attached hereto and incorporated by reference herein.

DONE THIS 6TH DAY OF SEPTEMBER, 2011, BY THE PLANNING AND ZONING COMMISSION FOR THE CITY OF BRANSON, MISSOURI.


Clark Harris - Chairman

ATTEST:


Jim Lawson Jr. - Director of Planning and Development

11-01200001

**APPENDIX A – ZONING
CHAPTER 400. GENERAL PROVISIONS**

Section 400.040. Definitions.

For the purpose of this title [appendix], certain terms and words are hereby defined as follows: Verbs used in the present tense shall include the future; words in the singular shall include the plural; words in the plural shall include the singular; the word "building" shall include the word "structure"; the word "lot" shall include the word "plot"; the word "shall" is mandatory and not directory. Any words defined in the building code of the city and not specifically defined herein shall be construed as defined in the building code of the city. Any word not defined herein or in the building code of the city shall have its usual meaning.

Abutting: Contiguous or sharing any point of contact. Distance from a contiguous zoning district shall be measured from the common property boundary, or if separated by public right-of-way, the width of the right-of-way shall be measured and credited as part of any required separation distance.

Accessory structure: Any structure which is not the primary structure on a premises, detached but on the same premises as the primary structure. (The term will replace the term "accessory building" in all cases where it is used in the code.)

Accommodations: Any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or any other private or commercial structure which is situated on real property and designed for occupancy by one or more individuals, which is made available to the purchasers of a timeshare plan.

Alley: Minor way, dedicated to public use, used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Amusement park: A facility, less than ten acres in area, that may include amusement parlors, structures, buildings and premises, where there are various devices for entertainment, which may include rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

Amusement parlor: A facility, located primarily within a building, where there are various devices for entertainment, which may include rides, booths for conduct of games or sale of items, restaurants and souvenir sales.

Animal hospital: A facility for the diagnosis and treatment of pets and other animals including, but not limited to, dogs, cats, birds, and horses. No outside boarding of these animals shall be allowed overnight.

Animal kennel: A facility that includes outside runs for the enclosure of pets being boarded for a short period of time.

Antique shop: An establishment offering articles for sale such as glass, china, furniture or similar furnishing or decorations which have value and significance as a result of age, design or sentiment.

Antenna support structure: Any building or other structure which can be used for location and support of telecommunication facilities.

Art gallery: A building or space where artwork is exhibited and sometimes sold.

Auto rental: A facility limited to office space, along with the display of automobiles, which for a fee, are rented or leased.

Auto repair: A facility that may provide and specialize in the repair of certain auto parts such as brakes, mufflers, collision repair or transmissions.

Auto sales: A facility used primarily for the sale of automobiles.

Auto salvage and wrecking: Any location at which:

1. More than five inoperable vehicles or vehicles under repair are located, and all vehicles are located outside of an enclosed building, and said vehicles have been in a state of disrepair for 45 or more days, continuous or collective.
2. Automotive parts are being stored outside of any enclosed building.
3. The area is being used for storage of scrap metal, sheetmetal, piping, plumbing supplies, construction materials, glass, waste paper, tanks, storage containers or other similar items that are kept outside of a building.

Bank and financial institution: A facility which has as its primary purpose the custody, loan, exchange or issue of money, the extension of credit and the transmission of funds, including drive-in facilities and automatic teller machines.

Barber[shop] and beauty shop: A facility licensed by the state where hair cutting, hair dressing, shaving, trimming beards, facials, manicures or related services are performed.

Basement or cellar: A portion of a building which is wholly or partly below grade, the ceiling of which is less than four feet above ground, which shall not be included as a story.

Billiard hall: A space in which billiards are played.

Board of aldermen: Governing body of the City of Branson.

~~[Boardinghouse: A building or place where, for compensation and by prearrangement for definite periods, table board is provided for five or more persons, but does not furnish meals to occasional or transient customers without previous arrangement.]~~

Bowling alley: A building or room containing lanes for bowling.

Building: A structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels, and when separated by firewalls, each portion of such building so separated shall be deemed to be a separate building.

Building line: The exterior face of a wall of an existing structure or the limits to which an exterior face of a wall of the proposed structure may be built, but shall not include retaining walls, the face of one-story unoccupied gable-roofed areas over porches, entrance or line appendages.

Buildings, height of: The vertical distance from the grade of the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch roof, or the average height of a hip roof.

Cabin or tourist court: An area containing one or more structures designed or intended to be used as temporary living facilities of two or more families and intended primarily for automobile transients. (See *Motel*.)

Campsite: A portion of the rentable space of a campground having an area 580 square feet or more which is divided into campsites.

Car wash: A facility for washing or steam cleaning passenger automobiles (including self-service operation), operating either as a separate facility or when installed and operating in conjunction with another use, and which installation includes equipment customarily associated with a car wash and which is installed solely for the purpose of washing and cleaning automobiles.

Church: A place of worship and religious training that may include accessory housing facilities such as a rectory.

Commercial recreation, indoor: Any indoor establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Including, but not limited to, skating rinks, bowling alleys, and billiard halls.

Commercial recreation, outdoor: Any outdoor establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Including, but not limited to, water slides, water parks, miniature golf courses and go kart tracks.

Commission: The City of Branson Planning and Zoning Commission.

Community center: A meeting place used by members of a community for social, cultural or recreational purposes.

Convenience food store: A small food store whose primary function is the sale of convenience food items such as bread, milk, etc.

District: Any section of the city for which the regulations governing use of buildings and premises and the height and area of buildings are uniform.

Drugstore or pharmacy: A facility for preparing, preserving, compounding and dispensing drugs and medicines; and may include the display and sale of other merchandise such as cosmetics, lotions, fountain service and similar items.

Dry cleaners: A facility that cleans clothing and other fabrics with chemical solvents that use little to no water.

Dwelling: Any building or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, multiple: A building or portion of a building having suitable accommodations for three or more families, living independently of each other, who may or may not have joint uses of utilities, halls, yards, etc. This term includes premises occupied more or less permanently for residential purposes in which rooms are occupied in apartments, suites or groups, such as apartments, dormitories, lodginghouses, roominghouses, and all the dwellings similarly occupied. For purposes of this title [appendix], auto courts, hotels, motels, motor courts, motor hotels or tourist courts shall not be considered dwellings.

Dwelling, one-family: A detached building used exclusively for residential purposes having suitable accommodations for only one family which may include not to exceed four lodgers or boarders.

Dwelling, two-family: A detached building used exclusively for residential purposes and designed for or occupied by two families living independently of each other, each of which may include not to exceed four lodgers or boarders.

Exhibition center: A place for the public display of objects of interest; similar to a museum.

Facilities: Any structure, service, improvement, campground, recreational vehicle park or real property, improved or unimproved, which is made available to the purchasers of a timeshare plan.

Family: An individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than five unrelated persons, living together as a single housekeeping unit in a dwelling unit.

~~[*Filling station:* Any building or premises used solely or principally for storing, dispensing, sale or offering for sale at retail of any automotive fuels, lubricants and automotive accessories.]~~

Feed store: A facility for the sale of grain, prepared feed and forage for pets, livestock and fowl, but not involving the grinding, mixing or commercial compounding of such items.

Florist: A facility for the retail sale of cut or uncut flowers, ornamental plants and accessory items. Enclosure of use required.

Frontage: The length of the property abutting on one side of a street or place measured along the dividing line between the property and the street or place.

Go-kart track: A track used for racing go-karts.

Golf course: A large tract of landscaped area for playing golf.

~~[Garage, private: An accessory structure designed or used for the storage of privately owned motor vehicles, of which not more than one may be a commercial motor vehicle of not more than two tons capacity, and with no provision for repairing or equipping such vehicles.]~~

~~[Garage, public: A building or portion thereof designed and used exclusively for housing four or more motor vehicles.]~~

Governing body: The Board of Aldermen of the City of Branson.

Government office: A place for the regular transaction of governmental business.

Grocery store: A marketplace or establishment where foods and associated items are kept and displayed for retail sales.

Group home: Any home in which eight or fewer, unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

Group housing project: A building project, consisting of five or more buildings (whether separately located or separated only, but completely, by firewalls) to be constructed on a plot of ground of three acres or more in one ownership which is not subdivided into the customary streets or lots, or where the existing or contemplated streets or lot layouts make it impracticable to apply the regulations of this chapter to the individual building units.

Home occupation: A business carried on by the occupant of a dwelling as a secondary use, including professional or semi-professional offices, when conducted entirely within the dwelling in connection with which there is no public display of stock in trade upon the premises; no nonresident of the premises is employed, and not more than one-fourth of the floor area of one story of the main dwelling, or a detached home workshop of not more than 200 square feet in area is used for such home occupation; and provided that the residential character of the dwelling is not changed by said use, and that such occupation does not cause any noises or vibrations to be heard beyond the property line, or create any noxious fumes or odors, or cause parking or traffic congestion in the immediate neighborhood.

Hotel: A building which provides a common entrance, lobby, halls and stairways, and [in] which lodging is provided [~~without meals~~]to transient guests.

Housekeeping unit: A building or portion of a building which is occupied or intended to be occupied as a dwelling, and which has the facility for cooking and serving meals and for sleeping quarters, and which may or may not include rooms or facilities.

Laundromat: A coin operation facility designed for use by the general population for the cleaning of domestic laundry items.

Laundry pick-up station: A facility for the collection and return of domestic laundry items. This use is to be totally enclosed.

Library: An establishment for the loan or display of books which is sponsored by a public or quasi-public agency and which institution is open and available to the general public.

Lockout unit: One or more rooms, within a dwelling unit which is under single, undivided ownership, which are connected to the primary dwelling area by a lockable door or doors so as to be capable of occupancy as separate quarters. Such unit may include sleeping and sanitary facilities and kitchenette facilities. A lockout unit will not be considered a separate dwelling unit unless it is conveyed into separate ownership from the rest of the dwelling unit, or it exceeds 195 square feet in area, in either of which cases it shall be considered a separate dwelling unit for purposes of calculation of dwelling unit densities. Dwelling units containing lockout units, which have been conveyed into separate ownership, shall be required to provide parking at the rate of one parking space for each separate dwelling unit containing one bedroom and 1½ parking spaces for each separate dwelling unit containing two or more bedrooms. In addition, a lockout unit, which is conveyed into separate ownership, shall be required to pay an additional sewer capacity fee as a separate dwelling unit.

Lodging establishment: Any building, group of buildings, structure, facility, place, or places of business where five or more guestrooms are provided, which is owned, maintained or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests, or for both transient and permanent guests.

Lot or plot: A building site or parcel of land occupied or intended to be occupied by a structure, and including such open spaces as are required under this title and having its principal frontage upon a public street or officially approved place.

Lot, corner: A lot abutting upon two or more streets at their intersection.

Lot, depth of: The mean horizontal distance between the front and rear lot lines.

Lot, frontage: See Frontage.

Lot, interior: A lot other than a corner lot or triangular lot.

Lot lines: The lines bounding a lot as defined herein.

Lot of record: A lot or portions of one or more lots which are part of a subdivision, the map of which has been recorded in the office of the recorder of deeds of the county, or a lot described by metes and bounds, the description of which has been recorded in the office of the recorder of deeds of the county.

Lot, through: An interior lot having frontage on two streets.

Lot, triangular: A lot abutting on two or more streets at their junction, where the angle formed by the intersecting streets is less than 45 degrees.

Lumberyard: A facility which sells and stores cut lumber and other associated or accessory building materials.

Manufactured structure. Includes any portable structure, vehicle, trailer, mobile home, modular structure, framework, container, platform or device, vehicular in design, which may be drawn, towed or transported from one location to another without basic change in structure or design, whether on wheels or not, and whether designed or used as living or sleeping quarters or not. The term manufactured structure shall include any structure above described used for a commercial or residential purpose.

Massage establishment: Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any therapeutic massage activities.

Medical office or clinic: A facility for examining, consulting with and treating patients, including offices, laboratories and outpatient facilities but not including hospital beds for overnight care or treatment.

Miniature golf: A novelty golf game played with a putter on a miniature course usually having tunnels, bridges, sharp corners and obstacles.

Mobile home: A dwelling structure built on a steel chassis and fitted with wheels that is intended to be hauled to a usually permanent site.

Modular unit: A factory-fabricated, transportable building designed to be used or to be incorporated with similar units at the building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated sub-elements such as panels, roof trusses, plumbing trees, or for instance. [sic]

Motel: A group of attached or detached permanent nonmobile buildings containing four or more individual sleeping or separate living facilities designed and used for the accommodation of nonpermanent residents. The term "motel" shall include motor court, auto court, cabin or tourist court but shall not include trailer camps or courts, camp sites or mobile parks as defined elsewhere in this chapter.

Museum: An institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

Recording studio: A facility for sound recording.

Newspaper publishing: A facility engaged in creating and printing newspapers.

Newsstand: A stall or other place at which newspapers and other periodicals and publications are sold.

Nightly rental: A building or portion thereof, in which sleeping accommodation is available for four or fewer guestrooms, for legal consideration, for a term less than 30 consecutive days.

Nonconforming use: A structure or premises legally occupied by a use that does not conform to the regulations of the district in which it is situated as established in this sector.

Off-premises contact (OPC): A small building, booth, kiosk, stand or similar structure where off-site timeshare plans, timeshare units or vacation clubs are marketed.

Parking lot: A parcel of land devoted to unenclosed parking space which may include partially enclosed structures.

Parking space: A suitably surfaced area on privately owned property, either within or outside of a building, and sufficient in size to store one standard automobile. The area shall not be less than 171 square feet, or an area nine by 19 feet in size.

Patio home: An attached one-family dwelling joined by common wall to another one-family dwelling, each being located on a separate lot of record.

Pet groomer: A facility for the grooming of pets where no outside runs are provided.

Pet shop: A facility for the display and sale of fish, birds, dogs, cats and other small animals as pets without involving commercial boarding or the treating of any animal, fish or bird.

Place: An open unoccupied space dedicated to purposes of access for abutting property.

Planned development: A planned development is land under unified control, planned and developed as a whole, in a single development operation or a definitely programmed series of development operations, including all lands and buildings for principal and accessory structures and uses substantially related to the character of the district, according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites and the like but also site plans, floor plans, and elevations for all buildings intended to be located, constructed, used and related to each other (to the extent required for determinations to be made under these regulations) and detailed plans for other uses and improvements on the land as related to the buildings, and with a program for provision, operation and maintenance of such areas, improvements, facilities and services as will be for common use by some or all of the occupants of the district, but will not be provided, operated and maintained at general public expense.

Porch: A roofed structure projecting from a building and separated from the building by the walls thereof and having no enclosed features except roof supports, railing or screen wire.

Portable structure: A prefabricated structure assembled off site and delivered to the site as a complete unit or a building purchased in kit form and assembled onsite, which can be moved without disassembly to another location.

Private restrictions affecting the subdivision: means restrictions on private open space used to meet the dedication of land required under section 66-121(g) of the Branson Municipal Code, and restrictions on the common elements for condominium development defined in section 66-32 of the Branson Municipal Code. These types of "private restrictions" affect the "subdivision." In order to ensure that the City of Branson is protected from future maintenance of such private open space, a copy of the "private restrictions" is kept on file with the city for future reference. In cases of condominium units, common elements are defined in section 66-32 of the Branson Municipal Code, and includes common land (as in residential development), and "other parts of the condominium property necessary or convenient to its existence, maintenance and safety, or normally in common use and described or provided for in the declaration." The city needs these items for future reference for many reasons, including but not limited to, code enforcement of property maintenance, which requires the officer to know what violations might be common to all units and what violations may have individual responsibility. Copies of these type restrictions are required for future reference by the city.

Professional and general offices: A place for the regular transaction of business, but not to include the occupation by retail sales, transfer of manufactured goods or the storage of commodities.

Public utility offices: An organization supplying a community with electricity, natural gas, water, or sewer and their accompanying services.

Rental storage operations: A facility for individuals to rent a space for the purpose of storing their goods or belongings.

Restaurant: An establishment where food and drinks are available to the general public primarily for consumption within a structure on the premises.

Satellite antenna or dish: A receiving or broadcasting antenna for television, circular in form and more than three feet in diameter, which may or may not be mounted on wheels for transportation, for the purpose of this title shall be considered an accessory structure and must meet all regulations concerning such structures.

Satellite earth station: The term "satellite earth station," as used herein, shall not include any antenna which is mounted to a self-supporting, guyed or monopole antenna support structure.

School, public, private or denominational: An educational institution operated under the auspices of the Branson School Board, or an educational institution operated by private or religious agencies.

Service station: A facility where gasoline, oil and other requirements for motor vehicles can be bought, and often where maintenance and minor repair work is also done.

Setback: A distance between lot line and the building line.

Special use: The use of [a structure or plot of]land other than that permitted in a particular zoning district. Special use requires a permit from the planning and zoning commission as in section 405.050 [405.040].

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Street: A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel which may include space for sewers, public utilities, trees and sidewalks.

Street line: The dividing line between a lot, tract or parcel of land and a street.

Structural alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, floor joists, roof joists or girders, or any substantial change in the roof or exterior walls.

Structure: A composition of two or more component parts or building materials joined together in some definite manner, so fabricated or assembled that each adds to the strength and rigidity of the other in final assembly. For the purposes of this chapter, it shall include buildings, towers, cages for transformer substations, pergolas, billboards, housecars, trash burners, BBQ pits, but not excluding other assemblies of similar type which are permanently located on a lot, not including poles, fences and such minor incidental improvements.

Telecommunication facility: Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of telecommunications as authorized by the Federal Communications Commission (FCC) located or proposed to be located or installed upon a telecommunications tower. This term shall not include:

1. Any satellite earth station, which is utilized for the reception of broadcast television, video or radio signals and which is on the same premises as and ancillary to the primary use of a television or radio station.
2. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned and used for industrial or commercial purposes.
3. Any satellite earth station antenna one meter or less in diameter, regardless of zoning classification.
4. Any telecommunications antenna located upon any city-owned structure with the approval of the city administrator.

Telecommunication tower: A self-supporting lattice, guyed or monopole support structure constructed from grade which supports telecommunication facilities. This term shall not include:

1. Amateur radio operators equipment, as licensed by the Federal Communications Commission.
2. Utility poles which are utilized for the support of electrical, telephone, cable television, or other similar cables and wires located in public rights-of-way or other public easements and are part of a system of such poles throughout the City of Branson.

Terrace: An artificial or natural embankment in the area between a building and a lot line.

Theater: A building, room, or other setting for showing movies or for where plays, dramatic presentations or other live entertainment is performed.

Theme park: A facility, exceeding ten acres in area, that may include amusement parlors, structures, buildings and premises, where there are various devices for entertainment, which may include rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales. This would also include other activities such as firework displays and light displays, provided all activities meet the requirements set forth in the Branson Municipal Code.

Timeshare periods: All periods of time when a purchaser of a timeshare plan is entitled to the possession and use of the accommodations or facilities, or both, of a timeshare plan regardless of whether such periods are designated as one or more specific days, weeks or months.

Timeshare plan: Any arrangement, plan, scheme or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right-to-use agreement or any other means, whereby a purchaser, in exchange for a consideration, received one or more timeshare periods, or any type of interval or joint ownership in, or a right-to-use, any accommodation or facility for a period of time which is less than a full continuous and uninterrupted year during any given year, and which extends for a period of time more than three years, as to each individual timeshare development subject to purchase.

Timeshare unit: An accommodation or facility of a timeshare plan which is divided into timeshare periods, or is otherwise subject to interval or joint ownership or use by the purchaser of the timeshare plans.

Trailer camp: Any lot, site, place, area or tract of land upon which are located two or more trailers which are under the jurisdiction or management of one person, or which use the same sanitary facilities, utilities and/or services and which are divided into camp sites.

Vacation club: Joint ownership or rental of vacation lodging by several persons, with each occupying the premises in turn for short periods.

Wares: An article of merchandise that is being presented outside of the business selling it.

Wholesale operations: A facility for commodities stored or wholesaled.

Yard: An open and unoccupied space on a building site, and except as otherwise provided in this title, open and unobstructed from the ground to the sky.

Yard, front: That portion of the yard extending across the front of a lot between the street line and the front building line, not including steps, terraces, unenclosed balconies, and unenclosed or screened porches.

Yard, rear: That portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies and unenclosed porches.

Yard, side: That portion of the yard along each side of a building between the building line and the side line of the lot extending from the front yard to the rear yard, not including steps, balconies or porches.

Section 405.030. Nonconforming structures and uses.

A. *Nonconforming uses.* Where at the time of passage of this title [appendix] lawful use of land exists which would not be permitted by the regulations imposed by this title [appendix] or amendments to this title [appendix], the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title [appendix].
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this title [appendix].
3. If any such nonconforming use of land ceases for any reason for a period of more than [~~six~~] **twelve** months, any subsequent use of such land shall conform to the regulations specified by this title [appendix] for the district in which such land is located.
4. No additional structure not conforming to the requirements of this title [appendix] shall be erected in connection with such nonconforming use of land.

E. [~~Conditional~~]-**Special** *use provisions not nonconforming uses.* Any use which is permitted as a [~~conditional~~]-**special** use in a district under the terms of this title [appendix] (other than a change through board of adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

Section 405.040. Special uses.

A. This title [appendix] shall not apply to [~~existing structures nor to~~]the existing use of any building which shall have complied with all the laws and ordinances in effect prior to the effective date of this title [appendix]. All zoning district regulations shall apply to any enlarging of a building for a nonconforming use in the district in which it is located and to any alteration of a building which is intended to change its use to a less restricted classification.

B. A special use permit shall be required from the planning and zoning commission for any use listed as a special use in any zoning classification and for any use not listed as a permitted use in any zoning classification. A special use permit review is intended to allow the establishment of uses that have a special impact, uniqueness, or effect on the neighborhood surrounding the subject site. In considering a special use, the planning and zoning commission shall consider the location and design of the proposed use, configuration of improvements, potential impacts on the surrounding neighborhood, and that development in each zoning district protects the integrity of that district and, following a hearing, the commission shall record the decision in writing and shall recite the findings upon which the decision is based. The commission may approve and/or modify a special use permit application in whole or in part, with conditions, only if all the following findings are made:

1. The proposed use is conditionally permitted within, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this title [appendix];
2. The proposed use is consistent with the land use plan and comprehensive master plan;
3. There will be no significant negative effects upon environmental quality and natural resources that could not be properly mitigated and monitored;
4. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience or welfare of the city;
5. The subject site is physically suitable for the type and density/intensity of use being proposed; and
6. There are adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to the public health and safety.

C. All special use permits shall be approved for a specific location, and shall be transferrable to a new property owner of that location for the same use barring any substantial changes or modifications of the operation. Written notification of any transfer shall be provided to the Planning & Zoning Department. Any special use permit shall become null and void upon the approval of a different special use at that location. Special use permits shall not be transferred to any other location by the applicant or successor property owners.

D. All special use permits shall be valid for an unlimited period of time unless a lesser period of time shall be provided in a particular permit. Prior to the expiration of the time limit specified in a particular permit, the property owner may request that the special use permit be reviewed by the Commission, which may extend it for an unlimited period or for a specified additional period of time.

Section 410.040. C commercial district regulations.

A. In the C commercial district, all buildings and premises, except as otherwise provided for in this chapter, may be used for any use permitted in the dwelling districts, and all structures enlarged, converted, or altered shall conform to the following area, height, and use regulations.

B. Uses permitted.

~~[24]~~**1.** Any use permitted in the R-3 multiple-family residential district.

~~[1]~~**2.** Antique shop.

~~[2. Appliance store.]~~

3. Art gallery.

~~[3. Arts and crafts.]~~

4. Bank and financial institution.

5. Barber[shop] and beauty shop.

6. Churches.

~~[7. Clothing and shoe store.]~~

7. Commercial recreation, indoor.

8. Community center.

9. Convenience food store.

~~[8]~~**10. Drugstore or pharmacy.**

11. Dry cleaners.

~~[9]~~**12. Florist.**

~~[10. Furniture store.]~~

~~[11]~~**13. General merchandise**~~[- department store and variety store -]~~or retail establishment.

~~[12. Gifts and souvenirs.]~~

~~[13. Hardware store.]~~

14. Government office.

15. Grocery store.

~~[14]~~**16. Hotel and motel.**

17. Laundromat.

18. Laundry pick-up station.

19. Library.

~~[26]~~**20. Massage establishment**s inspected and approved by the ~~[city-]~~**county** health department and operated by massage therapists licensed by the state.

21. Medical office or clinic.

~~[16. Music store and studio.]~~

~~[17]~~**22. Newsstand.**

~~[27]~~**23. Off-premises contacts (OPC), located inside a building.**

24. Pet grooming.

25. Pet shop.

~~[18]~~**26. Professional and general offices.**

~~[19]~~**27. Public utility offices.**

28. Recording studio.

~~[20]~~**29. Restaurant.**

~~[21. Sporting goods store.]~~

~~[22. Self-service laundry.]~~

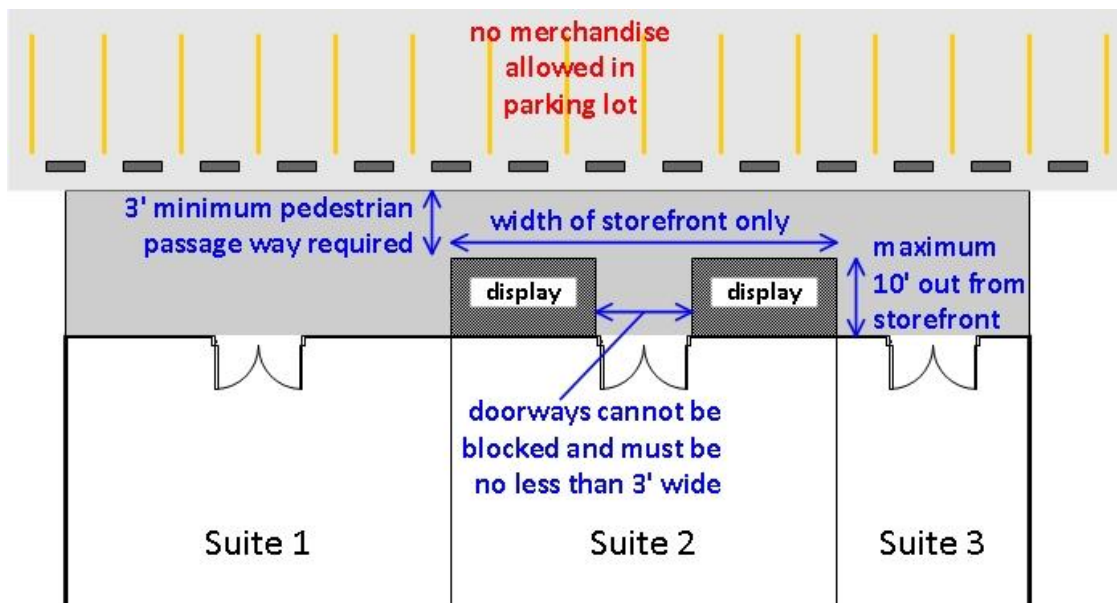
~~[23. Planned development.]~~

~~[25]~~**30. Telecommunications antenna on any antenna support structure, other than a telecommunications tower, which has been approved in accordance with regulations approved by the city administrator.**

31. Displaying of wares shall only be permitted providing the following conditions, and Figure 1 are met:

- a. Shall be located within the property limits of the business from which it is being sold; and,**
- b. Shall not extend beyond the front of that business's building frontage; and,**
- c. Any associated signage shall not include advertising content and shall be limited to the ware's price and name; and,**
- d. Shall not extend more than ten feet (10') outward from the front of the business's building; and,**
- e. Shall not be placed within, or interfere with any parking area or space(s); and,**
- f. Shall not block any sight triangle or the view of on-coming traffic; and,**
- g. Shall not block any pedestrian way and a minimum clearance width of three feet (3') shall be provided; and,**
- h. Shall not be hung resulting in a clearance less than eight feet (8') above a pedestrian way; and,**
- i. Any display with moving parts shall not come into contact with pedestrians if there is any potential to cause harm, including movement driven by the movement of air or by mechanical or electrical means.**

Figure 1



C. Special uses permitted.

- 1. Accessory structures used for commercial purposes.
- 2. Amusement parlor, amusement park or theme park.
- [10]3. [Pet shop and a]Animal hospital.

4. Animal kennel.

[3]~~5~~. Auto sales, rental and repair~~[-service]~~.

6. Car wash.

[4]~~7~~. Commercial recreation, outdoor.

[5]~~8~~. Feed store.

[6. ~~Government office.~~]

[7. ~~Laundry and dry cleaners.~~]

[8]~~9~~. Lumberyard.

10. Museum or exhibition center.

[9]~~11~~. Newspaper publishing.

[11]~~12~~. Residential or outpatient facilities for the treatment of alcohol or drug abuse.

[12]~~13~~. Service station~~[-and auto repair]~~.

[13]~~14~~. Theater.

[14]~~15~~. Timeshare unit, meeting the density requirements as outlined in section 410.070(D)(2).

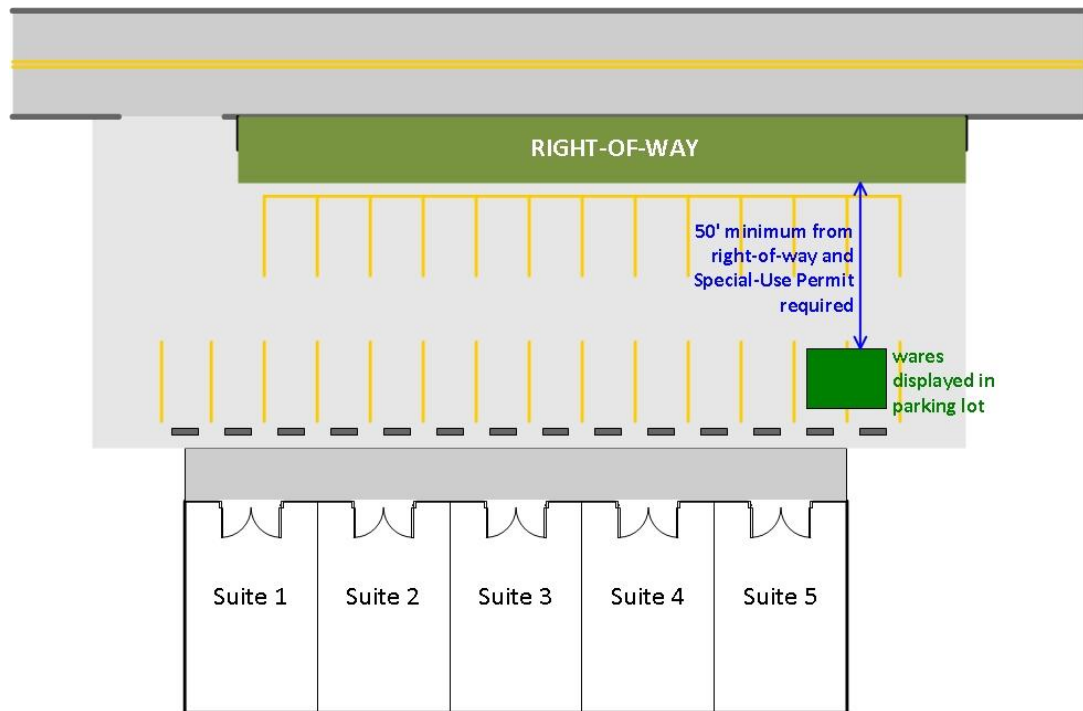
[15]~~16~~. Wholesale~~[-house, sales office]~~ and rental storage operations.

[16]~~17~~. Telecommunication towers shall only be allowed in a C commercial district. Such use shall only be by special use permit provided the following conditions are met:

18. Displaying of wares shall only be permitted within the front parking area by special use permit provided the following conditions, and Figure 2 are met:

- a. Shall be located within the property limits of the business from which it is being sold; and,
- b. Shall be located within an area no closer than fifty feet (50') to the nearest property boundary; and,
- c. Shall not block any sight triangle or the view of on-coming traffic; and,
- d. Any associated signage shall not include advertising content and shall be limited to the ware's price and name; and,
- e. Shall not block any pedestrian way and a minimum clearance width of three feet (3') shall be provided; and,
- f. Shall not be hung resulting in a clearance less than eight feet (8') above a pedestrian way; and,
- g. Any display with moving parts shall not come into contact with pedestrians if there is any potential to cause harm, including movement driven by the movement of air or by mechanical or electrical means.

Figure 2



NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

BMC AMENDMENT

CHAPTER 400

- Section 400.040. Definitions
 - Addition of: Animal hospital, Animal kennel, **Antique shop**, Art gallery, Auto rental, **Auto repair**, **Auto sales**, **Bank and financial institution**, **Barber[shop] and beauty shop**, Billiard hall, Bowling alley, Car wash, **Church**, Commercial recreation, indoor, Commercial recreation, outdoor, Community Center, Convenience food store, **Drugstore or pharmacy**, **Dry cleaners**, Exhibition center, **Feed store**, **Florist**, Go-kart track, **Golf course**, **Government office**, **Grocery store**, Laundromat, Laundry pick-up station, Library, **Lumberyard**, **Massage establishment**, Medical office or clinic, Miniature golf, **Mobile home**, Museum, Recording studio, **Newspaper publishing**, **Newsstand**, Pet groomer, Pet shop, Portable structure, **Professional and general offices**, **Public utility offices**, Rental storage operations, **Restaurant**, **School, public, private or denominational**, **Service station**, **Theater**, Wares, **Wholesale operations**.

BMC AMENDMENT

CHAPTER 400

- Section 405.030
 - Increase the time period from six months to twelve months for which a nonconforming use could cease before it would be required to conform to the regulations for its district
 - Change the term “*conditional use*” to “*special use*” to match the current terminology
- Section 405.040
 - Remove “*existing structures nor to*” as special uses are never tied to structures but only to property
 - Add a statement about the transferability of a special use permit being allowed barring any substantial changes or modifications to the operation
 - Add a statement about a special use permit being valid for an unlimited period of time unless a shorter time is determined by the Commission, which can then be extended by the property owner upon request

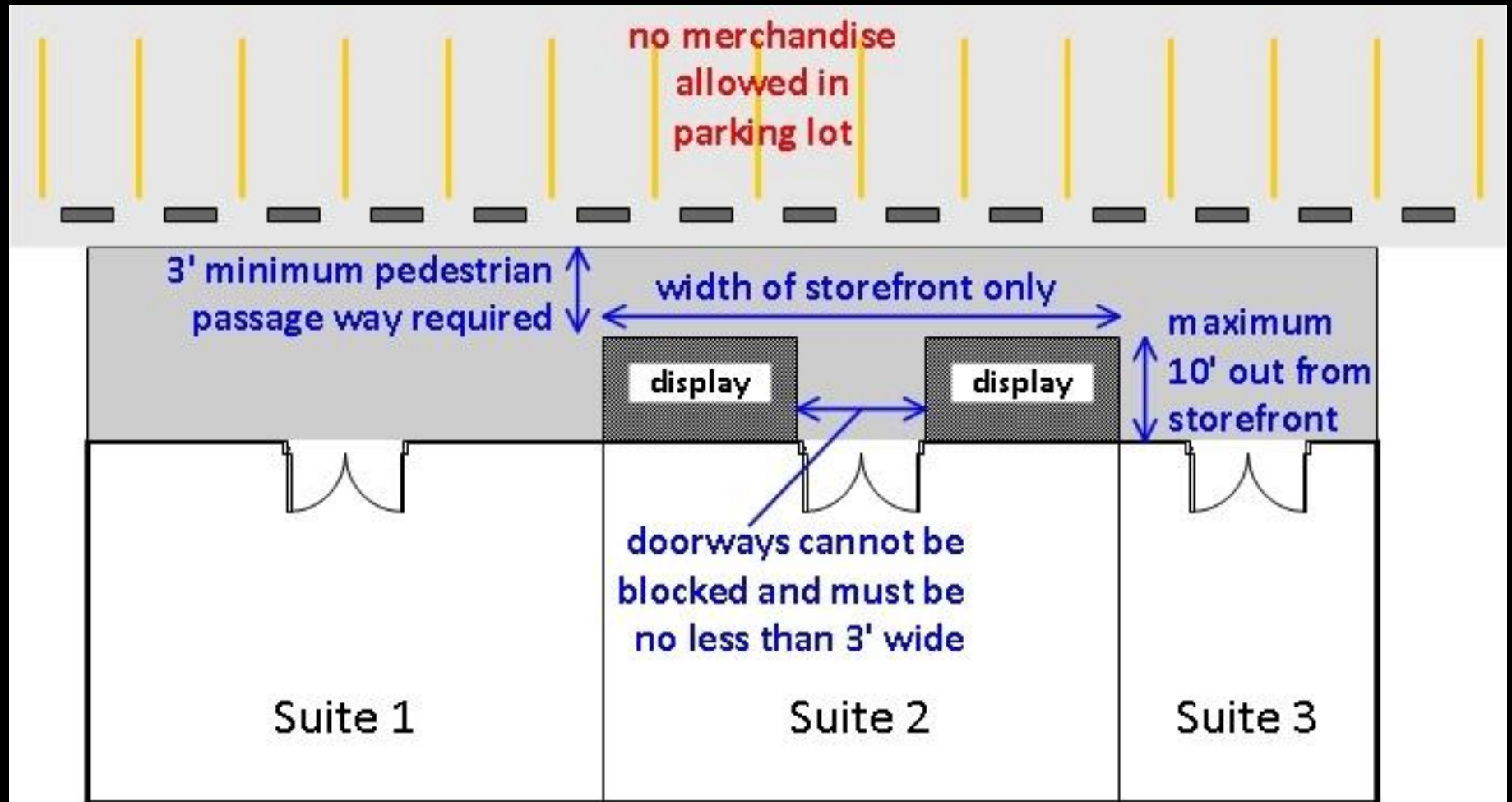
BMC AMENDMENT

CHAPTER 400

- Section 410.040
 - C commercial uses permitted:
 - Added: Art gallery, Commercial recreation, indoor, Community Center, Convenience food store, Laundromat, Laundry pick-up station, Library, Medical office or clinic, Pet groomer, Pharmacy, Recording studio & Display of wares (not within parking areas)
 - Added from special uses permitted: Dry cleaners, Government office, Pet shop
 - Removed: Appliance store, Arts and crafts, Clothing and shoe store, Furniture store, Hardware store, Music store and studio, Self-service laundry, Sporting goods store, Planned development
 - C commercial special uses permitted:
 - Added: Animal kennel, Auto rental, Car wash, Museum or exhibition center, Rental storage operations, Display of wares (within parking)
 - Removed: Dry cleaners, Government office, Pet shop

BMC AMENDMENT

CHAPTER 400

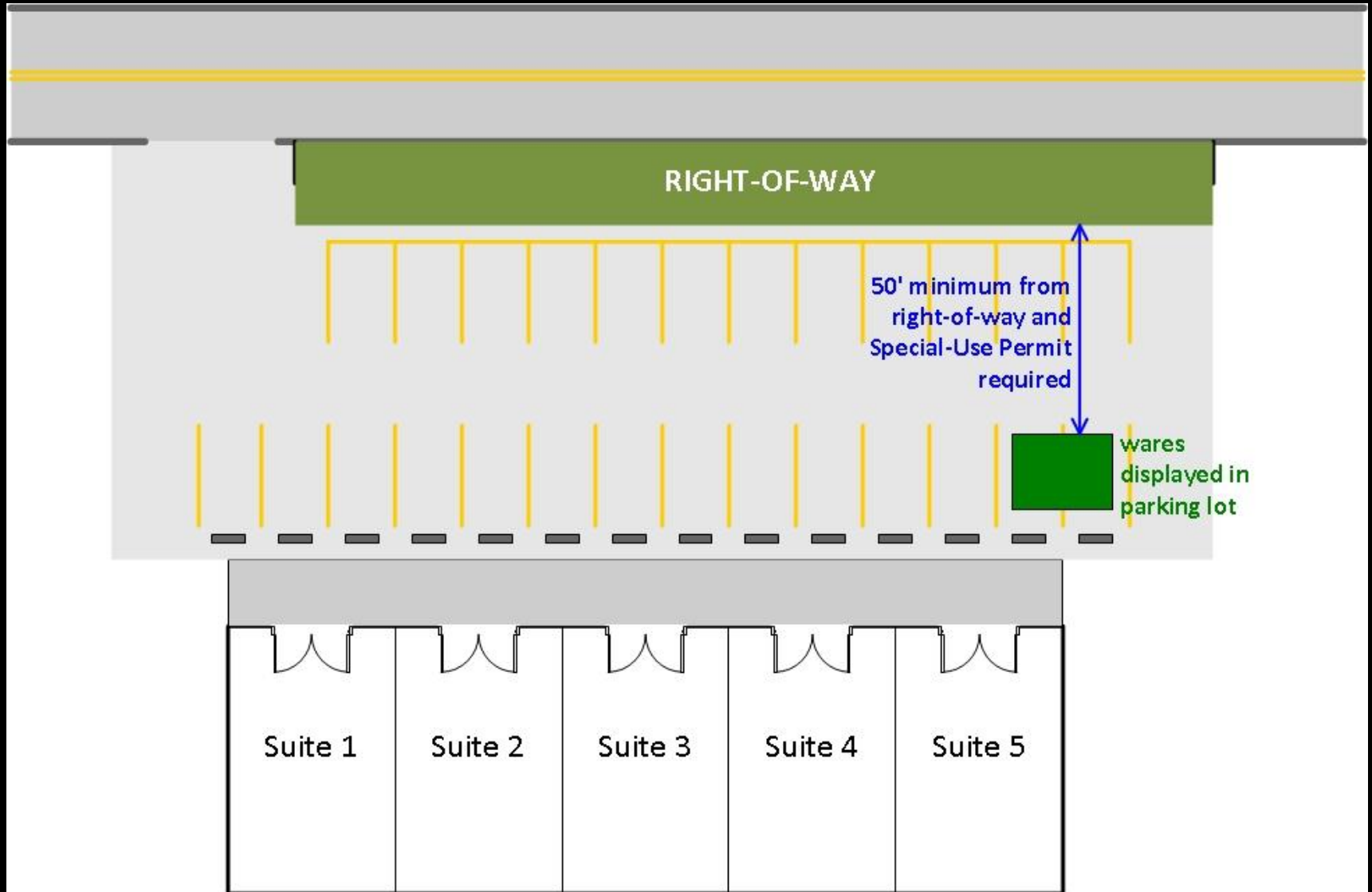


BMC AMENDMENT

CHAPTER 400

- Display of wares (not in a parking area) – Permitted Use
 - Shall be located within the property limits of the business from which it is being sold
 - Shall not extend beyond the front of that business's building frontage or more than 10 feet outward from the front of the business's building
 - Shall not be placed within, or interfere with any parking area or space(s)
 - Shall not block any pedestrian way, a minimum clearance width of 3 feet shall be provided
 - Shall not block any sight triangle or the view of on-coming traffic
 - Shall not be hung resulting in a clearance less than 8 feet above a pedestrian way
 - Any associated signage shall be limited to the ware's price and name
 - Any display with moving parts shall not come into contact with pedestrians if there is any potential to cause harm (includes movement driven by the movement of air or by mechanical or electrical means)

BMC AMENDMENT CHAPTER 400



BMC AMENDMENT

CHAPTER 400

- Display of wares (within a parking area) – Special Use Permit
 - Shall be located within the physical property limits of the business from which it is being sold
 - Shall not be located within 50 feet of any property boundary
 - Shall not block any pedestrian way, a minimum clearance width of 3 feet shall be provided
 - Shall not block any sight triangle or the view of on-coming traffic
 - Any associated signage shall be limited to the ware's price and name
 - Any display with moving parts shall not come into contact with pedestrians if there is any potential to cause harm (includes movement driven by the movement of air or by mechanical or electrical means)

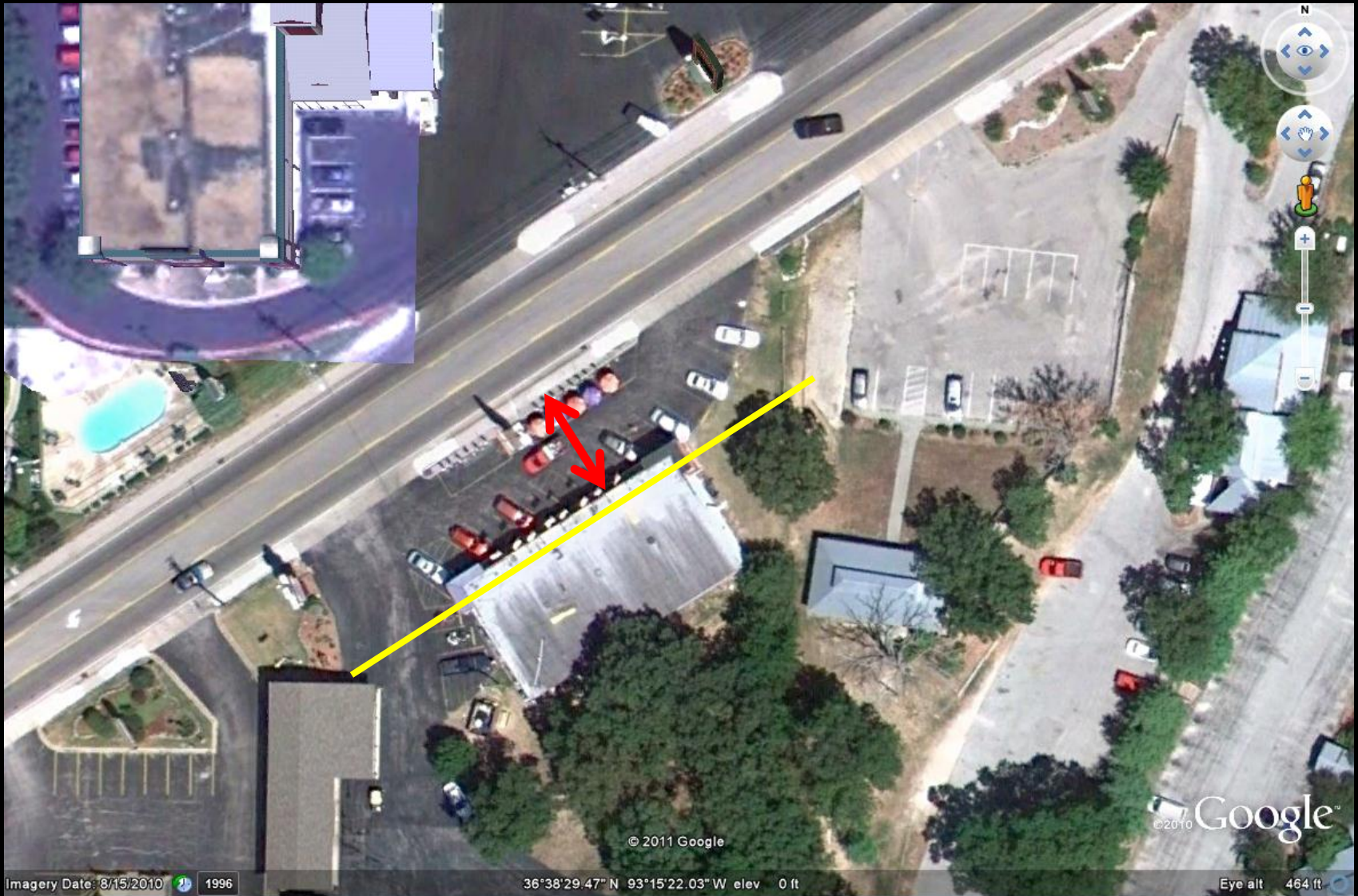
BMC AMENDMENT

CHAPTER 400



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BMC AMENDMENT CHAPTER 400



BMC AMENDMENT

CHAPTER 400



BMC AMENDMENT CHAPTER 400

